

1 Q. Which is how many grams?

2 A. 124 grams.

3 Q. So he bought a little bit more than half of that amount?

4 A. Yes.

5 Q. And what did you do with that amount when he gave it back to  
6 you?

7 A. I asked him, "Is it all there?" And he explained to me that  
8 it wasn't.

9 Q. What did he say?

10 A. Well, what happened was, if you let it sit long enough in  
11 the freezer, it will get hard just enough you got to sell it  
12 real quick.

13 So what he did, he let some of it get hard. And he  
14 gave it to Cheese, which is Andre Scott. So I asked him, why  
15 would he do that? He was like, he going to sell it.

16 So he gave me the half back and I told him, what do he  
17 want to do? He trust me with his money. He wasn't pressing me  
18 to get his money back. He wanted the product. I told him, by  
19 later on that day or tomorrow, I have some better product for  
20 him.

21 Q. And what did you do with the crack cocaine that he brought  
22 back to you?

23 A. I gave it back to my supplier, Michael Hall.

24 Q. And before you gave it back to Michael Hall, did you store  
25 it anywhere?

1 A. Yeah.

2 Q. Tell us about that.

3 A. I put it in the freezer so I can weigh it. That's how I  
4 come to really find out how much grams was really missing off of  
5 it.

6 Q. So when you put it back in the freezer, you let it do what?

7 A. Let it harden up.

8 Q. Did you take it out?

9 A. Yeah.

10 Q. When you took it out, what did you do with it?

11 A. I put it on a scale.

12 Q. And what did it weigh?

13 A. It came out to be about 70-some grams.

14 Q. And is that what you were referring to earlier, that it was  
15 a little bit more than 120 --

16 A. No, it was a little bit more than half.

17 Q. A little bit more than half?

18 A. Right. A half would be 62. It was around 77 grams. So it  
19 was a little bit more than half.

20 Q. All right. I think what I was referring to is, the total  
21 amount of the eighth of a key was a hundred and?

22 A. 124 grams.

23 Q. Now, did you talk to Mr. Ball about that, that he actually  
24 brought you back more than half?

25 A. Yes.

1 Q. When did that happen?

2 A. Well, the same day, in the same day. He understood  
3 everything that was going on. As a matter of fact, I picked him  
4 up and we rode down Trenton Park that day. How I found out that  
5 Cheese was having a hard time selling it, when we pulled up down  
6 Trenton Park, Antwuan got out the car and just started beating  
7 Cheese to the body.

8 Q. Where were you when that happened?

9 A. I was getting out the car.

10 Q. What kind of car were you in?

11 A. A red 300ZX.

12 Q. And did you hear Antwuan Ball say anything before he went to  
13 Cheese?

14 A. No. He just got out the car, approached Cheese, said, "Give  
15 me my money."

16 Q. And you said you saw Antwuan Ball beat Cheese to the body?

17 A. Yeah.

18 Q. Literally, what did you see Antwuan Ball do?

19 A. He was just punching him and beating him to the body.

20 Q. What was Cheese doing?

21 A. He was just standing there taking it. It kind of had me by  
22 surprise, because Cheese not a sucker, he not a punk. So it  
23 took me by surprise.

24 Q. Where did this beating take place?

25 A. Down Trenton Park.

# EXHIBIT C

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, : Docket No. CR 05-100  
: :  
Plaintiff : :  
: :  
v. : Washington, DC  
: :  
ANTWUAN BALL, : :  
DAVID WILSON, : :  
GREGORY BELL, : April 30, 2007  
DESMOND THURSTON, : :  
JOSEPH JONES, : :  
DOMINIC SAMUELS, : :  
: :  
Defendants : 9:15 a.m.  
: :  
\* \* \* \* \*

VOLUME 42 - MORNING SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS,  
UNITED STATES DISTRICT JUDGE, and a jury

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1 Q. Now I would like to get back, Mr. Marsh, and spend the  
2 remainder of my time talking about that two to three-year period  
3 from 1999 to May of 2001 in Congress Park. Okay?

4 I asked you earlier if back in the early 1990s you knew  
5 somebody by the name of Antwuan Ball. Do you remember that  
6 question?

7 A. Repeat it.

8 Q. Sure. I asked you a few moments ago about whether or not  
9 you knew someone named Antwuan Ball in the early '90s.

10 A. No.

11 Q. Okay. Beginning in around 1999, did you get to know  
12 Antwuan Ball?

13 A. Sure.

14 Q. And how did you meet him?

15 A. Pretty much through Cody. We both used to get our haircuts  
16 in the same place, so our paths crossed there.

17 Q. And when you first met him initially, just those first few  
18 meetings, did you immediately become friends, or what was the  
19 first few encounters you had with him?

20 A. Acquaintances, you know.

21 Q. Acquaintances?

22 A. I don't remember that we went out and had drinks that day,  
23 but I met him.

24 Q. Were you introduced through Cody?

25 A. That's what I said.

1 Q. Okay. And when you met Antwuan Ball through Cody, did you  
2 meet anyone else at that initial time in addition to  
3 Antwuan Ball when you got your hair cut?

4 A. Sure. I mean, I don't know if I met everybody the same day.

5 Q. And when you say "everybody the same day," at some point did  
6 you get to know other people who Antwuan Ball associated with in  
7 Congress Park?

8 A. Sure.

9 Q. And who were those people, or some of those people?

10 A. Jojo, Antwuan, Tony. I mean, Jazz, Santu. I'm sure there's  
11 others. I just can't -- not off the top of my head.

12 Q. Yes or no, do you know somebody by the name of Dazz, Dazz  
13 with a D?

14 A. I'm familiar with him.

15 Q. Okay. And yes or no, are you familiar with somebody by the  
16 name of Dom?

17 A. Dom? Yeah, I think I'm familiar with him.

18 Q. And just yes or no, did you become familiar with someone by  
19 the name of Wop or Cool Wop?

20 A. I'm familiar with him.

21 Q. Now, when you first got to know Antwuan Ball during these  
22 first few encounters, did you end up deciding to spend more time  
23 with him?

24 MS. WICKS: Objection as to leading.

25 THE COURT: I'll allow it.

1 A. He was a person of interest.

2 BY MR. LEON:

3 Q. To you?

4 A. Sure.

5 Q. Why?

6 A. Because of his influence.

7 Q. What do you mean by that, because of his influence?

8 A. Well, when you're in a position like I was in at the time,  
9 you got to -- it's always good to align yourself with somebody  
10 who has influence when you're dealing drugs, especially in the  
11 neighborhood that I'm in.

12 Q. You just said a couple of things I need to follow up on.

13 The first thing I think you said was referring to you,  
14 to yourself, when you're a person, words of the effect of "in  
15 the position you were in." What did you mean by that?

16 A. Well, we're all trading in illegal business, so if you're a  
17 person who can get large quantities of drugs, you know, and you  
18 running from an indictment in Virginia, you know, I'm looking at  
19 trying to find somewhere else to unload these drugs.

20 Q. At that time, 1999, when you were hanging out with Cody and  
21 you go to the barbershop, did you drive any cars?

22 A. I had quite a few cars.

23 Q. What kind of cars did you have back then?

24 MS. WICKS: Objection as to relevancy.

25 THE COURT: As to what?

1 MS. WICKS: Relevancy.

2 THE COURT: Overruled.

3 BY MR. LEON:

4 Q. What kind of cars?

5 A. Chevy truck, Trans Am, Ford, Ford truck, Acura Legends.

6 Q. And did you drive these vehicles -- I'm sorry, were you  
7 done?

8 A. I'm still thinking. Yeah, I'm done.

9 Q. And did you drive these vehicles in Congress Park in 1999?

10 A. Sure.

11 Q. Did you -- just yes or no at this point, did you reach any  
12 conclusions, yes or no, in your own mind, as to what position,  
13 if any, Mr. Ball had in the Congress Park neighborhood in 1999?

14 MS. WICKS: Objection.

15 MR. PURPURA: Objection.

16 MR. ZUCKER: Objection.

17 THE COURT: Sustained.

18 BY MR. LEON:

19 Q. You said that Mr. Ball was a person of interest to you. Why  
20 was he a person of interest to you?

21 MS. WICKS: Objection.

22 THE COURT: Basis?

23 MS. WICKS: Asked and answered and relevancy.

24 MR. ZUCKER: Also foundation.

25 THE COURT: I'll sustain it as to asked and answered.

1 BY MR. LEON:

2 Q. Did you ever -- once you reached the conclusions that you  
3 did regarding Antwuan Ball, did you spend more or less time with  
4 him?

5 A. I guess we started spending more time together.

6 Q. Did you, during that period, 1999, 2000, and 2001, until you  
7 were locked up in May of 2001, during those two to three years,  
8 did you develop a friendship with Antwuan Ball?

9 A. I don't know if you call it that, but...

10 MS. WICKS: Objection as to leading.

11 BY MR. LEON:

12 Q. Well, would you call it a friendship?

13 THE COURT: I'm sorry, was that an objection?

14 MR. TABACKMAN: Objection as to leading.

15 MS. WICKS: I'm sorry, Your Honor. Yes, objection as  
16 to leading at this point.

17 THE COURT: Sustained. But you can rephrase.

18 BY MR. LEON:

19 Q. How would you describe your relationship with Antwuan Ball  
20 as it developed during those years?

21 A. I would say it was more a relationship of I could help him,  
22 he could help me.

23 Q. How do you mean? What do you mean by that?

24 A. I can get drugs and he can help me get rid of them, or make  
25 it to where I can get rid of them.

1 much fly anywhere you wanted to go. I think we just reimbursed  
2 him.

3 Q. How long did you stay in Dallas, Texas with Antwuan Ball?

4 A. Couple of days.

5 Q. And from '99 to 2000 and into 2001, did you ever socialize,  
6 go out socially with Antwuan Ball?

7 A. No. I mean, we weren't the club types.

8 Q. You weren't the club types?

9 A. Naw.

10 Q. Now, I believe you said that you had -- words to the effect  
11 of you had drugs you wanted to get rid of, and you thought he  
12 could help you. Words to that effect. Correct?

13 A. Yeah.

14 Q. Did Antwuan Ball ever help you move drugs?

15 A. Sure.

16 Q. Okay. Let's focus first on your drugs that Antwuan Ball  
17 helped you move. Okay?

18 First of all, what type of drug are we talking about?

19 A. Cocaine powder. I never had any crack at that time. And  
20 Ecstasy pills.

21 Q. Okay. You mentioned two drugs. Let's take them one at a  
22 time. You said that you had at that time cocaine powder?

23 A. Yeah.

24 Q. And that you tried to get Antwuan Ball to help you move the  
25 cocaine powder?

1 MR. ZUCKER: Objection. Leading.

2 MR. LEON: I'm just trying to set a foundation.

3 THE COURT: Go ahead.

4 BY MR. LEON:

5 Q. Move the cocaine powder?

6 A. Sure.

7 Q. First of all, how much cocaine powder are we talking about,  
8 or are you talking about?

9 A. I mean, not a major quantity or nothing. No kilos or  
10 nothing like that. Usually eighths of keys, which is like  
11 four ounces.

12 Q. Eighths of keys, four ounces?

13 A. Four ounces and some change.

14 Q. Okay. How many times would you say you - you, Steve Marsh -  
15 would use Antwuan Ball to help get rid of your powder cocaine?

16 A. I wouldn't even -- a handful of times.

17 Q. And each of those handful of times, was it approximately the  
18 weight you just told us about, those four ounces or so?

19 A. Yeah, I would say so.

20 Q. Are you familiar with the term 62?

21 A. Uh-huh.

22 Q. Yes?

23 A. Yeah.

24 Q. And you've mentioned the term eighth. Is, in your mind, if  
25 you know, a 62 close to an eighth, or different --

1 A. It's half of an eighth.

2 Q. Half of an eighth.

3 Did you ever use Antwuan Ball to -- well, withdrawn.

4 MR. ZUCKER: Objection. Not to the withdrawal.

5 BY MR. LEON:

6 Q. Just yes or no, did Antwuan Ball ever purchase 62s from you?

7 A. Yes.

8 Q. And yes or no, did Antwuan Ball purchase eighths from you?

9 A. Yes.

10 Q. Do you remember reviewing your grand jury transcript in  
11 preparation for your testimony today?

12 A. Yes.

13 Q. Roughly when was that?

14 A. Last week.

15 Q. Okay. And other than that one time last week, did you  
16 review it any other times?

17 A. No.

18 Q. And did you notice any errors in the actual transcription,  
19 the words in the grand jury transcript?

20 A. Yeah. On one of those pages it said something about I had  
21 sold Antwuan 80 62s, and I never said that.

22 Q. Okay. The transcript read 80 62s?

23 A. That's what I said.

24 Q. And you're saying you never said that in the grand jury?

25 A. That's what I said.

1 Q. And did you reach any conclusions, yes or no, if that was an  
2 error or -- yes or no, if that was an error?

3 A. Had to be.

4 Q. And as you read it and read the context of that, did you  
5 reach a conclusion as to what that likely was?

6 A. Whoever was doing the typing made a mistake.

7 Q. And what was the mistake?

8 A. They probably misinterpreted me saying eighth to 80.

9 Q. Did you ever sell 80 62s to Antwuan Ball?

10 A. Naw.

11 Q. Did you ever sell eighths and 62s to Antwuan Ball?

12 A. Sure.

13 Q. Now, you also mentioned Ecstasy pills. Correct?

14 A. Yep.

15 Q. And are those pills?

16 A. Yeah.

17 Q. And when you would sell the Ecstasy pills to Antwuan Ball,  
18 how much would you sell him -- was this for personal use or was  
19 this for future sales?

20 MR. ZUCKER: Objection.

21 THE COURT: Why don't you clarify that?

22 MR. LEON: I'll rephrase.

23 BY MR. LEON:

24 Q. When you sold Ecstasy pills to Antwuan Ball, how much did  
25 you sell him at any one time?

1       drugs to Antwuan Ball.  Were there any times when Antwuan Ball  
2       sold drugs to you?

3                    MR. MARTIN:  Objection.  Sorry.  Withdrawn, Your Honor.

4       A.  Sure.

5       BY MR. LEON:

6       Q.  Okay.  What drugs did Antwuan Ball sell to you, Steve Marsh,  
7       when he sold you drugs?

8       A.  Between crack cocaine and powder cocaine, whatever -- you  
9       know, if I couldn't get my hands on anything, whatever he could  
10      get his hands on.

11      Q.  Okay.  How many times, if you can estimate, did Antwuan Ball  
12      sell to you crack cocaine?  Or I should say -- well, let's stay  
13      with crack cocaine.  How many times did Antwuan Ball sell to  
14      you, Steve Marsh, crack cocaine?

15      A.  A couple of times.

16      Q.  When you say a couple, how many?

17      A.  I would say no more than four times.  A couple, two or three  
18      times.

19      Q.  And I think you also said powder cocaine.  Were there any  
20      times when Antwuan would sell to you powder cocaine?

21      A.  Sure.

22      Q.  Can you estimate?

23      A.  I guess it would probably be the same, two, three times.  A  
24      couple.

25      Q.  And I think you also said something along the lines of, "any

1 time we could get our hands on something," words to that effect.

2 Do you remember saying that? Do you remember that?

3 A. I said "he."

4 Q. Okay. And that was my question. What would happen if --  
5 well, withdrawn.

6 What did you mean by that, any time he could get his  
7 hands on something? Why was that of interest to you?

8 A. Well, I usually got my drugs from far away. So if I had  
9 somebody who needed something and I couldn't get to mine, if he  
10 can get his hands on something, then I used that to my  
11 advantage.

12 Q. Did you ever share drugs with Antwuan Ball?

13 A. What do you mean by that?

14 Q. Okay. Did you ever -- you've talked about powder cocaine.  
15 Correct? Did you ever cook powder cocaine?

16 A. I didn't. I mean, I have in the past, but not with Antwuan.

17 Q. Okay. Do you know, yes or no, if Antwuan ever cooked powder  
18 cocaine?

19 MR. ZUCKER: Objection. Basis.

20 THE COURT: You can answer yes or no.

21 A. Yes.

22 BY MR. LEON:

23 Q. How do you know that?

24 A. I saw him.

25 Q. Saw him what? Do what?

1 A. Gate something, apartments.

2 Q. Do you remember the apartment number?

3 A. I think it was on the third floor, 30, 32.

4 Q. Whose apartment was this?

5 A. I believe it was a buddy of Antwuan's.

6 Q. What was his name?

7 A. Tony.

8 Q. And did Antwuan have a key to this apartment?

9 A. Yeah.

10 Q. Did you have a key to this apartment?

11 A. No.

12 Q. Did Antwuan, if you know, sleep in this apartment, stay over

13 and sleep?

14 A. Yeah.

15 Q. Now, you've talked about Antwuan for a little bit this

16 morning. Do you see Antwuan Ball in the courtroom here today?

17 A. Yeah.

18 Q. I'm going to ask if you could please point him out based on

19 his location and an article of clothing that he's wearing.

20 A. He got the dreadlocks or something in his hair, the tie.

21 Q. What color shirt?

22 A. Right here, the guy right there. Look like a white shirt.

23 MR. LEON: Your Honor, may the record reflect the

24 in-court identification of Defendant Ball?

25 MR. TABACKMAN: No objection.

1 THE COURT: Request is granted.

2 BY MR. LEON:

3 Q. So you saw Antwuan Ball cook powder cocaine?

4 A. Yeah.

5 Q. And in this apartment?

6 A. That's what I said already.

7 Q. I need to establish the record. That's why I'm doing it  
8 again.

9 How many times would you say you've seen Antwuan Ball  
10 cook up powder cocaine?

11 A. Once, twice. You know...

12 Q. And the powder that he cooked up, was this his powder or  
13 yours or someone else's?

14 A. It was mine.

15 Q. And how much powder cocaine did you give Antwuan Ball to  
16 cook up?

17 A. Oh, I don't remember no exact number. But I'm sure, you  
18 know, 50, 60 grams, try to make it into something more than it  
19 was.

20 Q. And did you see him do this?

21 A. I already answered that like three times. I said yeah every  
22 time.

23 Q. Okay. What did you do, if anything, after he finished  
24 cooking it up?

25 A. Put it in bags and weighed it.

1 Q. I'm sorry. And did you keep all of the crack cocaine that  
2 was cooked?

3 A. No.

4 Q. What if anything happened -- how much of it did you keep?

5 A. I don't remember all those defined details, you know.

6 Q. Okay. Did you share the crack cocaine, yes or no?

7 A. I'm sure, yeah.

8 Q. And with whom?

9 A. With Antwuan.

10 Q. Do you know if Antwuan Ball did any other things in this  
11 apartment that you described off of Alabama Avenue?

12 MR. TABACKMAN: Objection. Foundation.

13 MS. WICKS: Objection.

14 THE COURT: You can answer yes or no.

15 A. Yep.

16 BY MR. LEON:

17 Q. What other things, other than what you described as cooking  
18 crack cocaine, did Antwuan Ball do in this apartment?

19 MR. ZUCKER: Objection. Foundation.

20 THE COURT: Sustained.

21 BY MR. LEON:

22 Q. What, what --

23 MR. TABACKMAN: Your Honor, he doesn't --

24 THE COURT: Foundation. Sustained as to foundation.

25 BY MR. LEON:

# EXHIBIT D

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :  
:  
Plaintiff, : Docket No. CR 05-100  
:  
v. :  
:  
ANTWUAN BALL, DAVID WILSON, : Washington, DC  
GREGORY BELL, DESMOND :  
THURSTON, JOSEPH JONES, and : March 29, 2007  
DOMINIC SAMUELS, : 9:15 a.m.  
:  
Defendants. :  
:  
:

VOLUME 26 - MORNING SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS  
UNITED STATES DISTRICT COURT JUDGE, and a JURY

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1 was something like '95.

2 Q. Okay. Why was the death of Kairi something that made you  
3 and Don get back together?

4 MR. ZUCKER: Objection.

5 THE COURT: Sustained. Rephrase.

6 BY MR. LEON:

7 Q. Why do you remember that it was after the death of Kairi  
8 that you and Don got back together?

9 A. Because we started back hustling again.

10 Q. Was there anything significant about the death that  
11 caused you to get back with Don or no?

12 A. Naw, it didn't have nothing to do with the death. I  
13 think it was that, man, I didn't have to jive, duck and hide to  
14 hustle or nothing like that from my mother. I was just out  
15 there and I was starting to get some money, so he seen it and we  
16 just started back, you know, hustling together.

17 Q. Why didn't you have to duck and hide by that point in  
18 1995?

19 A. Because I was just basically grown. I was doing whatever  
20 I wanted to do.

21 Q. And tell us about that. In 1995 when you're not ducking  
22 and hiding anymore, tell us what you and Don are doing.

23 A. We started -- I started back with him getting coke from  
24 Antwuan.

25 Q. Okay. And when you and Don would get coke from Antwuan,

1 who would get it?

2 A. Don would go get it.

3 Q. And do you know why that was?

4 A. Because Antwuan already knew I was sluggish, too, trying  
5 to get money, so he'd give it to Don for us to break down or  
6 whatever.

7 Q. Were you ever with Don when he got the coke from Antwuan?

8 A. Yes, sir.

9 Q. How many times would you say you were with Don when he  
10 would get coke for the two of you from Antwuan?

11 A. A few times, sir.

12 Q. Okay. And how much would Don get for the two of you when  
13 he'd get from Antwuan in those cases?

14 A. Like a half ounce.

15 Q. And did -- for the record, how much would it cost you and  
16 Don to get a half an ounce from Antwuan around this time?

17 A. At the time, we did start buying something, but at the  
18 time, we was getting fronted.

19 Q. Okay. And even if you get fronted, at some point you  
20 have to pay it back, correct?

21 A. Yes, sir.

22 Q. So eventually when you had to pay it back, how much would  
23 get paid back?

24 A. For the half ounce, it's \$500.

25 Q. And again, for the record, a half is how much weight?

1 A. It's 14 grams.

2 Q. When you and Don would get fronted 14 grams, a half ounce  
3 back in 1995, how quickly would it take you and Don to sell  
4 that?

5 A. At that time, we was speedy, so it wouldn't take long.  
6 We might be finishing that night.

7 Q. And when you got finished, what'd you do next?

8 A. Go back. Or sometimes the money that we make back for  
9 ourselves, we put it together, get fronted a half and put some  
10 together to get some more.

11 Q. Now, was there anyone else other than Antwuan back around  
12 this time, '95 or so, that you and Don got -- either bought from  
13 or got fronted from, other than Antwuan?

14 A. Not at that time, no.

15 Q. Okay. Was there any other place that you, Bobby Capies,  
16 got your drugs around this time?

17 A. I mean, naw, not at that time.

18 Q. Do you know somebody by the name of Froggy?

19 A. Yes, sir.

20 Q. Who's Froggy?

21 A. A friend of Antwuan's.

22 Q. And a friend of Antwuan's at what time?

23 A. '95.

24 Q. Okay. How do you know that Froggy and Antwuan were  
25 friends?

1 A. I used to see them together.

2 Q. Okay. And when you would see them together, where would  
3 they be?

4 A. He was sitting in his van, talking or sitting in Froggy  
5 car, talking.

6 Q. Okay. Who had the van and who had the car?

7 A. Antwuan had a van.

8 Q. And Froggy had the car?

9 A. Yes.

10 Q. When you would see Antwuan and Froggy together in either  
11 the van or the car, where would the van or the car be? What  
12 neighborhood?

13 A. Around Congress Park.

14 Q. And anywhere in particular in Congress Park?

15 A. Sometimes in the circle around Mom's house or sometimes  
16 around Savannah, the end of Savannah Place.

17 Q. Okay. Now, you said somewhere around the circle near  
18 Mom's place -- Mom's house. Can you see what you refer to as --  
19 first of all -- well, withdraw that.

20 Who's Mom?

21 A. A lady named Sharon.

22 Q. And who was she to you back in 1995, if anyone?

23 A. Somebody that smoked -- I mean, that people go in her  
24 house, sell drugs and she buy coke.

25 Q. And you said her name is Sharon?

1 A. Yes, sir.

2 Q. Have you been in Mom's house?

3 A. Yes, sir.

4 Q. A lot or a little?

5 A. A lot.

6 Q. When you were in there, did you see Antwan in there?

7 A. Yes, sir.

8 Q. A lot or a little?

9 A. A lot.

10 Q. Who else would you see in Mom's house back around this  
11 time?

12 A. Jo-Jo, Boy-Boy, Geeka, Fat Tony.

13 Q. Can you see Mom's house on this map?

14 A. Yes, sir.

15 Q. Can you tap on the approximate area where you see Mom's  
16 house.

17 A. (Indicating.)

18 Q. Okay. And for the record, you put a dot just above the 1  
19 in 13th Place, which is a little north of the circle; is that  
20 fair?

21 A. Yes, sir.

22 Q. Okay. Is Mom's house on the left side of 13th Place or  
23 the right side of 13th Place?

24 A. What you mean, coming out? If you coming out, it's on  
25 the right side.

1 Q. Okay. It's on the part closer towards 14th Place or  
2 towards 13th Street?

3 A. Naw, that's 13th, sir.

4 Q. Okay. Is it on the side closer towards the Lincoln or  
5 the other side of the street?

6 A. The Lincoln side.

7 Q. Okay. Did you ever sell to Mom?

8 A. Yes, sir.

9 Q. A lot or a little?

10 A. A lot.

11 Q. Do you know if anyone else sold to Mom?

12 A. Yes, sir.

13 Q. Who?

14 A. Everybody around there that sell coke, that I knew was  
15 serving coke.

16 Q. I'm going to ask you to be more specific. In your mind,  
17 when you say everyone around there who sold coke, who are those  
18 people?

19 A. Wop, Twan, Jo-Jo, Don, Dazz, Jazz, Santu, Boy-Boy.

20 Q. All of the people that you just mentioned who sold to  
21 Mom, did you see all -- each of those people do that with your  
22 own eyes?

23 A. Yes, sir.

24 Q. A lot or a little?

25 A. A lot.

1 Q. Now, let's get back to Froggy. When you would see  
2 Antwuan and Froggy together, did you ever see them -- other than  
3 hang out together, did you ever see them do anything?

4 A. Not face-to-face, I never see them do anything.

5 Q. Okay. Were you ever with Antwuan when he said something  
6 to you about Froggy?

7 A. Yes, sir.

8 Q. Tell us -- first of all, tell us when this was.

9 A. Me and Don was around on -- in the circle and he was  
10 like, "In a minute, I want y'all to meet me around by Lulu house  
11 on Savannah Place."

12 Q. Who said this?

13 A. Antwuan.

14 Q. Okay. And after Antwuan said, "I want you to meet me in  
15 a few minutes near Lulu's house," what, if anything, did you see  
16 Antwuan do?

17 A. Ride up the street.

18 Q. And then do what?

19 A. To go meet the dude.

20 Q. What dude?

21 A. Froggy.

22 Q. Did you see him meet up with Froggy?

23 A. When I got there, Froggy was getting out his van.

24 Q. And where was Antwuan in relation to Froggy when Froggy  
25 was getting out of the van?

1 A. Could you refer [sic] the question again, please.  
2 Q. Sure. You saw Froggy get out of whose van?  
3 A. Antwuan's van.  
4 Q. And you're sure that was Antwuan's van?  
5 A. Yes, sir.  
6 Q. And after Froggy got out of Antwuan's van, what happened  
7 next?  
8 A. Me and Don got in the van with him.  
9 Q. And then what happened?  
10 A. He showed me a -- some cocaine. It was powder.  
11 Q. Antwuan did?  
12 A. Yes, sir.  
13 Q. Could you tell how much powder it was?  
14 A. He said it was a half a key.  
15 Q. And did you know at that point what a half a key looked  
16 like?  
17 A. That was like -- that was my first time seeing a half a  
18 key of coke.  
19 Q. Can you show us with your hands how much a half a key of  
20 powder looks like?  
21 A. It's like about a block, about like that (indicating),  
22 about this thick.  
23 Q. Okay. For the record, first you put your hands --  
24 Can you do that again?  
25 A. It was about like (indicating), and about this thick,

1 (indicating).

2 Q. So it looks like you put your hands maybe about three or  
3 four inches wide, is that fair?

4 A. Yes, sir.

5 Q. And then about maybe two inches high, is that what you  
6 did?

7 A. (Indicating) about right there, sir.

8 Q. You said it was a box, was it hard or was it powder?

9 A. It was powder.

10 Q. Did you see the powder or was it wrapped in something?

11 A. It was wrapped in something.

12 Q. And after Antwuan showed you this half a key of powder,  
13 what, if anything, did Antwuan say after that?

14 A. He was like, I'm going to be nice in a minute, and I'm  
15 going to come back and holler at y'all.

16 Q. What did you understand, "I'm going to be nice in a  
17 minute" to mean?

18 A. Like he going to fix it up, so he can front me and Don  
19 some more coke.

20 Q. Fix it up how?

21 A. Cook it.

22 Q. And did you end up meeting up with Antwuan after this?

23 A. Yes.

24 Q. How much later?

25 A. Like about two days, because it take some time to cook

1 the coke -- I mean for the coke to get hard.

2 Q. Have you ever cooked powder into crack?

3 A. Before, yes.

4 Q. What do you mean "before"?

5 A. I had cooked powder into crack.

6 Q. Before you saw Antwuan in 1995 or what do you mean by  
7 before?

8 A. I mean, I said I did it before.

9 Q. You mean as you sit here today?

10 A. Yes, I've cooked coke before.

11 Q. Okay. And you said it takes a couple days to cool?

12 A. Like about a -- like about a day or two.

13 Q. Okay. So about two days later when you see Antwuan, tell  
14 us what happens?

15 A. We get some more coke from him.

16 Q. Who is we?

17 A. Me and Don.

18 Q. How much did you get from Antwuan those two days later?

19 A. Normal stuff, like a half ounce.

20 Q. Do you remember on this day if you paid for it or were  
21 you fronted it?

22 A. I mean, I couldn't remember specifically, but I know at  
23 the time, we was getting fronted coke from him and we was buying  
24 coke from him.

25 MR. LEON: May I approach, Your Honor?

1           And Mr. Capies, for the record, I put on the screen what  
2 we sublabeled 702.14 C1. And is that the picture?

3       A.     Yes, sir.

4       Q.     And just, if you could tap for us who's who. You said  
5 Don's in the picture. Where's Don?

6       A.     (Indicating).

7       Q.     For the record, you tapped on the taller gentleman in the  
8 reddish-orange sweater?

9       A.     Yes, sir.

10      Q.     Okay. You said Keith. Which one is Keith?

11      A.     (Indicating).

12      Q.     And for the record, you tapped on the picture of the  
13 person who's beside Don, standing in a winter coat?

14      A.     Yes, sir.

15      Q.     And then you said Kevin. Where is Kevin?

16      A.     (Indicating).

17      Q.     And for the record, you tapped on the person seated in  
18 the middle, bottom portion of that picture; is that correct?

19      A.     Yes, sir.

20      Q.     Is that the Kevin who you just tapped on, the same Kevin  
21 who you would buy from back and around '95 or so?

22      A.     I never bought none from Kevin.

23      Q.     Okay. Thank you for correcting me. Is that the same  
24 Kevin that you talked about earlier seeing sell drugs in  
25 Congress Park?

1 A. Yes, sir.

2 Q. Okay. And what about Keith, I don't remember if I asked  
3 you about Keith. Did Keith sell in Congress Park as well?

4 A. Yes, sir.

5 Q. I'm going to ask you to clear the screen.

6 MR. LEON: May I approach, Your Honor?

7 THE COURT: Yes.

8 BY MR. LEON:

9 Q. I'll also hand you another picture, also taken out of  
10 714.C. Do you recognize that?

11 A. Yes, sir.

12 Q. What is that?

13 A. A picture at The Place.

14 Q. What's The Place?

15 A. Like this little place you go for, like, mic nights and  
16 stuff like that.

17 Q. Okay. Can you tell when that picture was taken?

18 A. In '99.

19 Q. Why do you say that?

20 A. Because that's when we was going to The Place.

21 Q. And when you say "we," who was we? Who is the "we" that  
22 you're referring to that went to The Place in 1999?

23 A. Me, Wop, Phil, DC, Don, EB, Antwuan, Fat Tony, JT, Baby  
24 Kairee.

25 Q. Okay. And do you know where this picture was -- do you

1 have an understanding as to where this picture was taken from,  
2 not when it was taken by a photographer, but where it was  
3 retrieved from? When is the last time you saw that picture?

4 A. In my house.

5 MR. LEON: Permission to publish, Your Honor.

6 THE COURT: Yes.

7 BY MR. LEON:

8 Q. This picture is actually also separately marked for  
9 identification, separately as Government's 108.27, which is not  
10 in evidence, even though the physical picture I hold in my hand  
11 is part of the bag that is in evidence, so it's labeled twice.  
12 So just to be careful, we would separately move for the  
13 admission of Government's 108.27, and then we could -- if that's  
14 granted, we could then publish it through the sanctions.

15 MS. WICKS: No objection.

16 BY MR. LEON:

17 Q. Mr. Capies, I'll ask you --

18 THE COURT: Well, let's -- do you want to have that item  
19 in evidence as 108.27 or do you want to keep it in evidence as a  
20 part of 702.14 C? It should bear only one exhibit  
21 identification.

22 MR. LEON: It doesn't matter to the government. I think  
23 it would be easier to view off of sanctions. That's my only  
24 request. We don't care how it's labeled though, as long as we  
25 can -- Your Honor, can I have a moment?

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, : Docket No. CR 05-100  
: :  
Plaintiff : :  
v. : Washington, DC  
: :  
ANTWUAN BALL, : :  
DAVID WILSON, : :  
GREGORY BELL, : March 29, 2007  
DESMOND THURSTON, : :  
JOSEPH JONES, : :  
DOMINIC SAMUELS, : :  
: :  
Defendants : 1:00 p.m.  
: : . . . . .

VOLUME 26 - AFTERNOON SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS,  
UNITED STATES DISTRICT JUDGE, and a jury

APPEARANCES:

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(202) 454-2811

1 Q. Where are you?

2 A. Right behind him.

3 Q. Can you please tap on you?

4 A. (Witness complies.)

5 Q. For the record, you tapped on the face and cap of somebody  
6 over the left shoulder of the person you identified as Jojo,  
7 with a blue cap. That's you?

8 A. Yes, sir.

9 Q. Do you recognize anyone else in this photograph?

10 A. Yes, sir.

11 Q. Who?

12 A. Boy-Boy.

13 Q. Where is Boy-Boy?

14 A. (Witness complies.)

15 Q. For the record, you tapped on the person standing all the  
16 way to the right of the photograph, but the second person from  
17 the right. Is that correct?

18 A. Yes, sir.

19 Q. Standing next to the person you identified as Jojo?

20 A. Yes, sir.

21 Q. Now, I believe earlier -- actually, I believe yesterday you  
22 talked about buying, I believe you testified that you and Don  
23 bought drugs from Boy-Boy during the earlier part, '92, '93 or  
24 so. Is that accurate?

25 A. Yes, sir.

1 Q. Okay. Did you personally buy from Boy-Boy during that time?

2 A. Yes, sir.

3 Q. Okay. And did you -- when you and Don bought, did Don buy  
4 separately or did you buy separately? How did that work?

5 A. We would go to him together and buy wholesales. He has his  
6 own money, I have my own money.

7 Q. And what period of time is this? How long did you and Don  
8 buy wholesales from Boy-Boy. And again, we're just in the '92  
9 to '96 time period right now.

10 A. Off and on, all the way up to '96.

11 Q. Were there ever times you would buy from Boy-Boy on your  
12 own, without Don there?

13 A. Yes, sir.

14 Q. And when you did that, how much would you buy from Boy-Boy?

15 A. Just wholesale, like \$200, 40 dimes or something like that.  
16 \$100, 20 dimes.

17 Q. Of the people during this period of time, '92 to '96, that  
18 you would mainly - you, Bobby Capies - would mainly get your  
19 supply from, who were some of the main people you personally  
20 would get your supply from, during this time period, '92 to '96?

21 A. Boy-Boy, Kairi, and Antwuan.

22 Q. Do you recognize anyone else in this photograph?

23 A. Yes, sir.

24 Q. Who?

25 A. A dude named Terry.

1 Q. Where is Terry?

2 A. (Witness complies.)

3 Q. For the record, you pointed to somebody standing in the back  
4 row, in between the person -- standing in between and behind the  
5 person you identified as Baby Ki and the person you identified  
6 as Jojo. Is that correct?

7 A. Yes, sir.

8 Q. Who is Terry?

9 A. Somebody that lived around the Congress Park.

10 Q. And to your knowledge, did Terry sell drugs in Congress Park  
11 around that time?

12 A. I never seen him sell drugs, sir.

13 Q. Do you recognize anyone else in the photograph?

14 A. Yes, sir.

15 Q. Who?

16 A. A dude named Fat Dog.

17 Q. Fat Dog?

18 A. Yes, sir.

19 Q. Where is Fat Dog?

20 A. (Witness complies.)

21 Q. For the record, you indicated a person towards the lower  
22 center portion of the photograph, in what appears to be a red  
23 and black plaid, either jacket or a long shirt. Is that  
24 correct? Is that fair?

25 A. Yes, sir.

1 A. (Witness complies.)

2 Q. And for the record, you've indicated someone also squatting  
3 or kneeling, wearing a baseball cap. Of the three people  
4 squatting or kneeling on this photograph, he's the one in the  
5 center holding what appears to be a beer bottle in his left  
6 hand.

7 A. Yes, sir.

8 Q. Okay. What connection if any does Doo-Doo have to Congress  
9 Park during the 1992 to 1996 period?

10 A. He was hustling around there.

11 Q. What do you mean by "hustling around there"?

12 A. Selling drugs.

13 Q. What part of Congress Park did Doo-Doo hustle in the '92 to  
14 '96 period, if you know?

15 A. I used to see him. He used to be in the circle sometimes,  
16 but I mainly used to see him in the Boat Alley.

17 Q. When he was in the Circle, was he alone or with others?

18 A. Yes, sir.

19 Q. Which? Was he alone or with others when he was hustling in  
20 the circle?

21 A. Oh, he was with others.

22 Q. Who?

23 A. Jojo, Antwuan, Kairi, Boy-Boy, Fat Tony.

24 Q. Now, let me just stop there. A few different times I've  
25 asked you, when someone is in the circle, who else is there?

1 For example, right here you just said Doo-Doo, Jojo, Antwuan,  
2 Kairi, and Boy-Boy I think you just said now. You've mentioned  
3 about, I think that's five people.

4 Were there -- other than the five people you just  
5 identified in response to this question, how many more people  
6 were there out there in the circle selling when you saw this  
7 group of five people selling?

8 A. I mean, that was they stationary spot --

9 MR. ZUCKER: Objection.

10 THE COURT: Hold on one second.

11 MR. ZUCKER: Objection. The question is so vague as to  
12 time and association.

13 THE COURT: Well, come on up.

14 (BENCH CONFERENCE ON THE RECORD.)

15 THE COURT: Before we get to your objection, I thought  
16 I heard his answer being, "Sometimes I would see him in the  
17 circle, but most of the time I would see him in Boat Alley."

18 The predicate of your question was, "You've said, with  
19 respect to the circle, the following people." The names that  
20 you named I thought were names that came out in connection with  
21 Boat Alley.

22 MR. LEON: I may have -- first, I may have  
23 misunderstood his answer, so I can certainly take a step back  
24 and clear that up. That was not an intentional  
25 misrepresentation.

1                   THE COURT: I thought his answer included a time  
2 period. His answer about when Kairi died included part of a  
3 time period you were asking. Maybe I misremember the answer.

4                   MR. LEON: I can try to clean it up. I understand the  
5 point.

6                   (END BENCH CONFERENCE.)

7 BY MR. LEON:

8 Q. Mr. Capies, I think you said that Kairi died, I think you  
9 said sometime in '95?

10 A. Yes, sir.

11 Q. Okay. So before Kairi passed, let's say 1994, did you, to  
12 the best of your memory, see Doo-Doo sell crack cocaine in the  
13 circle in, say 1994?

14 A. Between them times, I could say I seen him roughly. But I  
15 knew some of the time too, he was in jail too, some of the time.

16 Q. Okay. So can you put a year on it or no?

17 A. I don't understand what you say.

18 Q. Sure. You said at some point around then Doo-Doo was  
19 incarcerated?

20 A. Yes, sir.

21 Q. Do you know exactly what parts of what years he was?

22 A. Like '92, something like that.

23 Q. Do you know if he was incarcerated in '94, if you know?

24 A. No, sir.

25 Q. Okay. Can you, in your mind as you sit here, remember a

1 time you saw Doo-Doo selling crack in the circle?

2 A. Yes, sir.

3 Q. When you saw Doo-Doo selling crack in the circle, was it --  
4 roughly, can you number the number of times that he was selling  
5 crack in the circle?

6 A. I don't know how many times, but I know it was like the end  
7 of '95 going into '96.

8 Q. Okay. Do you know if, at that time, Kairi was alive or had  
9 he already been killed?

10 A. I don't know. I know Kairi died in '95, but I don't know...

11 Q. Okay. And again, who are some of the people who you do  
12 remember being around or near Doo-Doo when you saw Doo-Doo  
13 selling crack cocaine in the circle area?

14 A. Jojo, Antwuan, Fat Tony. And like Kairi used to be in the  
15 circle, too.

16 Q. And you mentioned a few people just now: Jojo, Antwuan,  
17 Kairi, and Fat Tony. Were there other people around the circle  
18 at that time that you just can't remember, or is that more or  
19 less the group?

20 A. Boy-Boy.

21 Q. Okay. You mentioned Boy-Boy. Other than these people as  
22 well as Boy-Boy, anybody else that you can't remember but were  
23 there, or is that pretty much the group?

24 A. Is that time frame, Geeka used to come around there too.

25 Q. Okay, Geeka. Anybody else you can think of?

1 A. All the group that used to be across the street from 1313.  
2 I mean, it's like everybody used to come around there, but there  
3 was a certain group that was stationary right there. Everybody  
4 had, back in that time, had like their own little group where  
5 they was at.

6 Q. And that's what I'm getting at. You just --

7 MR. ZUCKER: Objection.

8 MR. LEON: Withdrawn.

9 THE COURT: Sustained. Go ahead.

10 BY MR. LEON:

11 Q. I want to pick up on your language, sir. You said something  
12 about a group being stationary at the circle. What in your mind  
13 did you mean when you said a group being stationary at the  
14 circle. Who are those people?

15 A. Like Jojo, Antwuan, Kairi, Fat Tony. Geeka was coming  
16 around there. He was really stationary around there with them.  
17 They used to be like in the circle, in a lady named Mom's house.

18 Q. That's the Mom's that you talked about earlier this morning?

19 A. Yes, sir.

20 MR. LEON: May I approach, Your Honor?

21 THE COURT: Yes.

22 BY MR. LEON:

23 Q. Mr. Capies, I'm handing you what's marked for identification  
24 as Government 's 208.1. Do you recognize the person who is  
25 depicted on that exhibit?

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :  
:  
Plaintiff, : Docket No. CR 05-100  
:  
v. :  
:  
ANTWUAN BALL, DAVID WILSON, : Washington, DC  
GREGORY BELL, DESMOND :  
THURSTON, JOSEPH JONES, and : April 2, 2007  
DOMINIC SAMUELS, : 9:15 a.m.  
:  
Defendants. :  
:  
:

VOLUME 27 - MORNING SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS  
UNITED STATES DISTRICT COURT JUDGE, and a JURY

APPEARANCES:

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bit broad.

MR. LEON: I thought I zeroed it in on '95, '96. I apologize.

THE COURT: Well, even during a two-year period. What are you asking?

MR. LEON: Okay. I'll zero it in.

BY MR. LEON:

Q. During the time period 1995 or so, around the time -- first of all, around that time period, 1995, in that time period, were you in Moms' apartment, yes or no?

A. Yes, sir.

Q. Okay. So that year, when you were in Moms' apartment during that year or so, when you were in that apartment -- so in other words, based on your own eyes, not on what you heard but what you saw -- what you saw, tell us -- describe for us what you saw going on in Moms' apartment.

A. People selling crack.

MR. TABACKMAN: Still, Your Honor -- I mean, is that something going on the entire time?

THE COURT: I'll allow it. Go ahead.

THE WITNESS: People was selling crack.

BY MR. LEON:

Q. Okay. Other than selling crack, were people storing crack in that apartment?

A. Yes, sir.

Q. How do you know that?

A. Because I was seeing it.

Q. What did you see with respect to storing crack in that apartment?

A. Sometimes I'd go in there, when I get fronted coke from Antwuan, he have coke in there.

Q. Did you ever see weapons in that apartment?

A. Yes, sir.

Q. And when you would see weapons in that apartment, who would have the weapons or where would they be?

A. Antwuan, Joe Geeko, Fat Tony.

Q. Do you know if weapons were ever stored in that apartment?

MR. ZUCKER: Objection.

THE WITNESS: I don't know if --

MR. ZUCKER: Is it asked based on what he saw?

THE COURT: Beg your pardon?

MR. ZUCKER: I ask that it be limited to what the witness saw, not what he believed.

THE COURT: I think the question was "Do you know?" And he can answer yes or no.

BY MR. LEON:

Q. Do you know if -- just yes or no, if weapons were stored in the apartment?

A. No, I don't know if they were stored in there, sir.

Q. First Poobie and then Booby?

A. I know somebody named Poobie.

Q. Who's Poobie?

A. That was a guy that used to be with Burke.

Q. What do you remember about that?

A. They used to hang out together.

Q. Poobie hung out with Burke?

A. Yes.

Q. Did they just hang out or did Poobie have any drug relationship with Burke, to your knowledge?

A. Not that I never seen. I never seen them.

Q. Poobie a man or a woman?

A. Huh?

Q. Is Poobie, with a P, a man or a woman?

A. A man, sir.

Q. First just yes or no, during 1996 -- actually, let's say 1996 to 2001, that same period, did Antwuan Ball, just yes or no, to your knowledge, sell crack to other people?

A. Weight. I ain't never seen him serve no hand-to-hand crack to other people.

Q. When you say "weight," what do you mean by "weight"?

A. Quarters and halves.

Q. How do you know that during this period of time, Antwuan Ball sold weight to others?

A. Because most of the time I be in the car with him.

Q. With who?

A. With Antwuan.

Q. Tell us some of the people -- who were you in the car with -- withdrawn.

First of all, what time period are we talking about? Can you be more specific within '96 and 2001?

A. This like '97, '98.

Q. Okay. Whose car are you in with Antwuan, when he's selling weight to people?

A. In his car.

Q. What kind of car was it at that time?

A. I can't remember the kind of car at that time, what he was driving.

Q. Okay. And who were you with? Who did Antwuan sell in your presence in his car?

A. I don't know if he was selling to him or fronting it to him, but I seen him give crack to Doo-Doo, Lucious, S-Curl, and a dude named Rob.

Q. Now, Rob, you mentioned earlier somebody by the name of Rob. Is this the same Rob, a different Rob?

A. A different Rob.

Q. Who's this Rob?

A. A guy named Rob. He -- his sister name Charise. I just know him. I don't really know him all about his whereabouts, but I just know that's his sister.

Q. Okay. Did this Rob who Antwuan sold to, did he himself, Rob, sell in Congress Park or somewhere else, to your knowledge?

A. I seen him hustling in the Boat Alley a few times, from what I seen. That's in Congress Park.

Q. And when Antwuan would, in your presence, supply these people, how much was it -- or front them, how much was it?

A. I can't remember the quantity, but I seen him pass some coke.

Q. You don't know how much?

A. I don't remember the quantity, but I have seen him pass some coke.

Q. Okay. Now let's get to Boobie with a B. Do you know somebody by the name of Boobie?

A. Yes, sir.

Q. Who is Boobie?

A. He was a guy who was with me when he got killed.

Q. Do you know if Boobie has any brothers?

A. Yes, sir.

Q. Who were Boobie's brothers?

A. Wop.

Q. Okay. Is Boobie an older or younger brother than Wop's, if you know?

A. It's his younger brother.

Q. You said you were with Boobie when he was killed?

A. Yes.

# EXHIBIT E

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	:
	:
Plaintiff,	: Docket No. CR 05-100
	:
v.	:
	:
ANTWUAN BALL, DAVID WILSON,	: Washington, DC
GREGORY BELL, DESMOND	:
THURSTON, JOSEPH JONES, and	: May 7, 2007
DOMINIC SAMUELS,	: 9:20 a.m.
	:
Defendants.	:
	:
	:
	:

**VOLUME 46 - MORNING SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS  
UNITED STATES DISTRICT COURT JUDGE, and a JURY**

APPEARANCES:

For the United States:	UNITED STATES ATTORNEY'S OFFICE Glenn S. Leon, Assistant United States Attorney Ann H. Petalas, Assistant United States Attorney, Gilberto Guerrero, Assistant United States Attorney 555 4th Street Washington, DC 20001 202.305.0174
For Defendant Antwuan Ball:	CARNEY & CARNEY John James Carney, Esq. South Building 601 Pennsylvania Avenue, N.W. Washington, DC 20004 202.434.8234

1 Q. Was that a violation of your conditions of release?

2 A. Yes, it was.

3 Q. Have you used any other drugs, other than smoking weed?

4 A. Nope.

5 Q. And jumping back, talking about -- you talked about  
6 getting drugs from Boy-Boy back in 1994. What happened then?

7 How -- did you continue to sell drugs? How often did you  
8 continue to sell drugs after that time?

9 Once you got that drugs the first time from Boy-Boy, tell  
10 us about your drug dealing after that. How often?

11 A. I mean, every day I just sold drugs around the park.

12 Q. You said every day you sold drugs around the park?

13 A. Like I say, not every day because one day I might not  
14 have had nothing. I might have been broke or -- but basically,  
15 I was trying to come up in the drug world.

16 Q. And in 1994, how old are you?

17 A. Fourteen. It's either --

18 MR. PURPURA: Objection.

19 THE WITNESS: -- 13 or 14, because my birthday is on  
20 September 3rd, so it depends on if it was early or if it was  
21 late.

22 BY MS. PETALAS:

23 Q. You said you were either 13 or 14th because your birthday  
24 is on September 3rd. That's right around your birthday that you  
25 started?

1 A. Hum?

2 Q. That you started getting the drugs from Boy-Boy?

3 A. Okay. Let me see. My birthday -- if I was going back to  
4 school, my birthday was coming up at least two to three days  
5 after that, or something like that, going back to school.

6 Q. So --

7 A. Because my birthday is like -- ain't that Labor Day on  
8 the September 2nd or something? Or whatever holiday that is, my  
9 birthday on the 3rd, so --

10 Q. And so I just want to clarify. Was this right around  
11 when you turned -- either right before you turned 14 or right  
12 after you turned 14? Is that what you're trying to say?

13 A. Yes, yes.

14 Q. And who did you get drugs from after that first time you  
15 got from Boy-Boy?

16 A. Boy-Boy -- I mean, everybody, like it's -- I have to name  
17 names?

18 Q. Yes.

19 A. Okay.

20 Q. When you say "everybody," who do you mean?

21 A. Up, Boy-Boy, Twan, Wop, Jo-Jo -- Twan, Jo-Jo, Wop --

22 Q. Let me stop you right there.

23 A. Hold on. Hold on. I'm going to go -- it's just so many  
24 names.

25 THE COURT: I think she wants you to hold on because she

1 A. Like -- okay. At first Twan wouldn't fuck with me. Twan  
2 was on my heels about going to school. So like if I wouldn't --  
3 if Twan caught me out of school or something, it was like all of  
4 us at that period of time, so if he caught us not going to  
5 school, they used to fuck us up and beat our body and shit like  
6 that.

7 But after school, it was cool to do whatever, so --

8 Q. Okay. We'll go back to that in a minute. Right now, I'm  
9 on Boy-Boy. How often would you get from Boy-Boy?

10 A. Periodically, like if I bought a wholesale, if I asked  
11 him to hold some dimes or something like that. Like when I  
12 first -- '94, going on up, I wasn't really doing too much in  
13 that. I was in some bummmy shit like wearing Boy-Boy clothes,  
14 shit like that, you know, getting dimes from Boy-Boy.

15 MR. MARTIN: Objection, Your Honor. Non-responsive,  
16 narrative.

17 THE COURT: Sustained. Put your question.

18 BY MS. PETALAS:

19 Q. Well -- and when you said -- so you did say -- yes or no,  
20 you were actually -- you did get drugs from Boy-Boy during this  
21 period?

22 MR. BEANE: Objection, your Honor. Asked and answered.

23 THE COURT: Sustained.

24 BY MS. PETALAS:

25 Q. And if you could estimate what the amounts were, how

1 often would you -- would it be a weekly occurrence? Monthly  
2 occurrence? How often could you get from Boy-Boy? Or would you  
3 get from Boy-Boy?

4 MR. BEANE: Objection, Your Honor. Asked and answered.

5 THE COURT: I'll allow it.

6 You can answer it.

7 THE WITNESS: It might be every day, every other day. If  
8 I had some money or if he wanted to give me something, he'd throw  
9 me some dimes or --

10 BY MS. PETALAS:

11 Q. You said if he wanted to give you something. Would there  
12 be times when he would give you coke?

13 A. Yeah -- yes.

14 Q. You also mentioned an individual named Meat. Who's Meat?

15 A. A friend of all of ours from down Good Hope Road.

16 Q. And how was it that you met Meat?

17 A. I met Meat like years ago on Good Hope Road, going down  
18 there with Aman.

19 Q. And what amounts of crack cocaine did you get from Meat?

20 MR. ZUCKER: Objection -- withdrawn.

21 BY MS. PETALAS:

22 Q. You can answer the question.

23 A. I used to get ounces from him.

24 Q. And do you know Meat's proper name?

25 A. Dimitrius Spencer.

1 Q. I'm sorry. What?

2 A. Dimitrius Spencer.

3 Q. And just for clarification, do you know an individual  
4 named Meatball?

5 A. Yes.

6 Q. Is Meatball a different person from Meat?

7 A. Yes.

8 Q. You also talked about getting drugs from Antwuan and you  
9 mentioned something about school, going to school and him not  
10 messing with you. Explain what you meant by that. When did you  
11 start getting from Antwuan?

12 A. I can't recall -- I can't recall what year I started  
13 getting from Antwuan or what specific date, but -- I'm trying to  
14 remember. Was it after my juvenile? Before I did the --

15 It was before I did the 14 months.

16 Q. And what amounts would you get from Antwuan before -- I'm  
17 talking about time period before you did the 14 months?

18 A. Like quarters.

19 Q. When you say "quarters," you mean quarter of what?

20 A. Quarter ounce, seven grams. There was one particular  
21 time, he gave me and Little Benny some quarters.

22 Q. Let me stop you there. We'll get to that in a minute.  
23 Because you talked about going to school, explain what  
24 you meant when you said they were trying to get you to go to  
25 school.

1 A. All right. My mother had put me out, so I moved to  
2 Sharrah house, so I was going to Johnson.

3 Q. You moved to who's house?

4 A. My cousin Sharrah house. So I moved there. I was going  
5 to Johnson. So like if I could -- it was just known in the  
6 hood, like if you hook school, stuff like that, maybe Kairi and  
7 Antwuan, Jo-Jo -- Boy-Boy, all them niggas would chase you  
8 around the hood and tell you to go to school or beat you up, you  
9 know what I'm saying, because you wasn't in school.

10 Q. And once you got out of school, what could you do?

11 A. Whatever you wanted to do. I mean, you know, to this  
12 day -- I mean, right now --

13 MR. PURPURA: Objection.

14 THE COURT: Sustained.

15 BY MS. PETALAS:

16 Q. During this time period -- you talked about getting  
17 quarter ounces from Antwuan before you went in. Did -- would  
18 you pay for them? Did he front you? How did that work?

19 A. I might -- if I had some money, I'd buy it. If I didn't,  
20 he'd front me, you know. But a lot of times, I used to fuck  
21 Antwuan money up, so he really didn't like to fuck with me.

22 Q. And what do you mean, you would screw up his money?

23 A. Like he front me and I wouldn't pay him or I took too  
24 long to pay him and then there'd be a problem between me and him  
25 about the money.

1 Q. What do you mean, it would take too long to pay him?

2 Explain how that worked.

3 A. Like because -- I mean, I used to be tripping. Like they  
4 give niggas something, it be like -- they give niggas a quarter  
5 and be like ride around, ride around, ride around, ride around.  
6 They pull up on you, like, "When am I going to get my money?"  
7 Like, "Damn, I ain't make no money," you know.

8 Q. And how long would they give you to sell a quarter?

9 MR. ZUCKER: Objection.

10 MR. MARTIN: Objection to the "they," Your Honor.

11 THE COURT: Sustained.

12 BY MS. PETALAS:

13 Q. How long -- we're talking about Antwuan. How long would  
14 it be before he would come back to get the money?

15 A. ASAP. A-S-A-P.

16 Q. What do you mean by "ASAP"?

17 A. He want his money as soon as possible. And if you didn't  
18 have his money as soon as possible, he put his hands on you.

19 Q. And you talked about -- you started to tell a story about  
20 Little Benny, something that happened with Little Benny. Could  
21 you -- what happened -- what were you saying there?

22 A. Well, one particular time, Twan had gave me and Little  
23 Benny a quarter a piece.

24 Q. And who's Little Benny?

25 A. This is Lona's son.

1 Q. And who's Lona?

2 A. My Aunt Webaby, good friend of hers, son.

3 Q. Was Little Benny -- did Little Benny live in Congress  
4 Park?

5 A. He didn't live in -- he came around the park. He wasn't  
6 staying around the park.

7 But he gave me and Little Benny some quarters.

8 Q. Who gave you and Little Benny some quarters?

9 A. Antwuan gave me and Little Benny some quarters, so he was  
10 like -- it was like some minutes later, he was like, "Where my  
11 money? Y'all got my money?"

12 Q. Who said that?

13 A. Twan. I was like, "Damn, I ain't sold nothing yet."

14 He said, "Don't let me have to fuck y'all up about my  
15 money."

16 So me and little Benny went to, I think, one of those  
17 stores to get a beer and came back and they said Twan was  
18 looking for us. So I was like, "Damn."

19 I forget where I went at, but Little Benny went in front  
20 of the Lincoln and Twan had plucked him in his eye. So when I  
21 seen Little Benny early that day, he was like, "Man, you better  
22 pay him his money, man. He plucked me in my eye, man,  
23 da-da-da-da. I paid him his money. You better pay him his  
24 money."

25 And before that, he was like, "I'm going to fuck you up

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, : Docket No. CR 05-100  
:   
Plaintiff :  
:   
v. : Washington, DC  
:   
ANTWUAN BALL, :  
DAVID WILSON, :  
GREGORY BELL, : May 7, 2007  
DESMOND THURSTON, :  
JOSEPH JONES, :  
DOMINIC SAMUELS, :  
:   
Defendants : 2:00 p.m.  
· · · · · : · · · · ·

VOLUME 46 - AFTERNOON SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS,  
UNITED STATES DISTRICT JUDGE, and a jury

## APPEARANCES:

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(202) 454-2811

1 A. Same day I got locked up, November 17th.

2 Q. This was one year later, so 2002?

3 A. Yes, ma'am.

4 Q. I'm going to focus on that time period for right now. When  
5 you get out, do you start dealing with Antwuan at all?

6 A. We start doing business.

7 MS. PETALAS: Court's indulgence.

8 BY MS. PETALAS:

9 Q. I'm sorry, I misspoke. You said it was 2000 that you got  
10 locked up, so I'm talking November of 2001. Is that correct?

11 A. When I got out?

12 Q. Yes.

13 A. Yes. Same day I got locked up, same day I got released.

14 Q. And how was it that you started dealing with Antwuan when  
15 you get out of jail?

16 A. I was at my -- all right. How we started out dealing back  
17 and forth then, he called me to his house and was like, "Ki, the  
18 police raid run in here, the police raid run in here."

19 Q. Let me stop you right there. Who called you?

20 A. Twuan.

21 Q. And where was his house at that time?

22 A. On Benning Road.

23 Q. So when he called you, did you go over to his house?

24 A. Yes.

25 Q. And what happened when you got to his house?

1 A. He was like, "Take this coke." So he gave me two ounces.

2 And I was like, "You want me to take this gun?" He was  
3 like, "No, no, no, it's cool. It's cool. The gun cool." I was  
4 like...

5 Q. So when you said, "You want me to take this gun," was there  
6 a gun there?

7 A. Yeah, he had a -- it was a 357, silver with a brown handle.

8 Q. I'm sorry, what?

9 A. It was silver with a brown handle.

10 Q. Did you think it was unusual he didn't want you to take the  
11 gun?

12 A. Yeah. I just run with the flow.

13 Q. So did you take the two ounces?

14 A. Uh-huh.

15 Q. You have to answer yes or no, for the record.

16 A. Yes.

17 Q. And what did you do with those two ounces?

18 A. I took them home.

19 Q. And where was home?

20 A. 44 Falls Terrace.

21 Q. Falls Terrace, where is that?

22 A. In Simple City, right off Alabama Avenue.

23 Q. And were you living there at the time?

24 A. Yes.

25 Q. Who were you living with?

1 A. Me, my baby mother, and my mother.

2 Q. And after you took this home, at some point do you go to  
3 sell those two ounces?

4 MS. WICKS: Objection.

5 THE COURT: Sustained.

6 BY MS. PETALAS:

7 Q. What do you do with the two ounces after that?

8 A. That morning, I went back around the way. And I'm like,  
9 "You want your shit?" He was like, "Shit, you might as well  
10 sell them joints. You might as well hold them joints."

11 Q. Okay, let me stop you right there. You said you went back  
12 around the way. When did you go back around the way?

13 A. The next morning.

14 Q. And when you say, "went back around the way," where were you  
15 going?

16 A. Congress Park. So went back around the way, asked him did  
17 he want his coke back.

18 Q. Who were you talking to?

19 A. Twuan. He was like, "Dude, might as well keep it, Shorty.  
20 You might as well sell it, Shorty. You can get it off, you got  
21 the money for it."

22 So I was stuck with two ounces. So I sold the  
23 two ounces.

24 Q. You said you were stuck with two ounces?

25 A. I wasn't stuck with them, but I sold them.

1 Q. And when you went back around the way and he told you to  
2 keep them, did you have to give him any money at that time  
3 period?

4 MR. CARNEY: Objection. Leading, Your Honor.

5 THE COURT: Sustained.

6 BY MS. PETALAS:

7 Q. During that first conversation when you went back around the  
8 way, that you just talked about, was there any money exchanged  
9 at that point?

10 A. I think I paid him for one, and I owed him for one. No.  
11 Did I pay him for one right there? I can't remember. I can't  
12 remember if I -- I can't remember.

13 MS. PETALAS: Court's indulgence.

14 BY MS. PETALAS:

15 Q. Were you able to sell those two ounces?

16 A. Yes.

17 Q. And what happened when you sold the two ounces?

18 A. He gave me some more.

19 Q. He gave you two more what?

20 A. O's, two more ounces. I owed him -- no, I think I sold him.  
21 He gave me -- I think he gave me two more or one more, then he  
22 gave me another one, and I owed him like 24.

23 Q. Okay. Let me stop you right there.

24 MS. PETALAS: Court's indulgence.

25 BY MS. PETALAS:

1 Q. You said you can't remember how much -- if you paid him  
2 after those first two ounces?

3 A. No.

4 Q. You have to answer yes or no.

5 A. No.

6 Q. Do you remember testifying in the grand jury about this?

7 A. Yes, ma'am.

8 Q. Would looking at the grand jury refresh your recollection?

9 A. Yes.

10 MS. PETALAS: I'm referring to February 1st, 2005,  
11 page 40.

12 Actually, Your Honor, may we approach briefly?

13 THE COURT: Yes.

14 (BENCH CONFERENCE ON THE RECORD.)

15 MS. PETALAS: The reason I approached, I can place more  
16 on the record because I haven't placed any on the record. But  
17 through his prior testimony, after talking to this witness, he  
18 has some literacy problems. So I can refresh his recollection,  
19 but he has some reading issues.

20 So I can show it to him, kind of run into it  
21 technically. I don't know if there's a way I can place the  
22 usher on and I can quietly read it to him, or -- his grand jury  
23 testimony will refresh his recollection. There's just kind of a  
24 physical problem with him being able to read it. And I don't  
25 want to read it all out so the jury can hear it, but it is

1 Q. Mr. Kellibrew, did that refresh your recollection?

2 A. Yes.

3 Q. Now I need my memory refreshed on what I asked you.

4 MS. PETALAS: Could you read back the last question?

5 THE REPORTER: Before the bench conference?

6 MS. PETALAS: Yes.

7 (The record is read.)

8 BY MS. PETALAS:

9 Q. Well, after you -- let's just step back. You testified  
10 Antwuan Ball gave you two ounces. When you sold those two  
11 ounces, did you pay Antwuan anything?

12 A. Paid him for one, he gave me another one, made it 22.

13 Q. You said made it 22 what?

14 A. 2200 that I owed him.

15 Q. You owed him \$2,200?

16 A. Yeah. Yes.

17 Q. And what happened then?

18 A. He gave me another one. I paid him for one, he gave me  
19 another one. It went 22, 22, then he gave me -- then he was,  
20 like, "Oh, I'm almost done, I'm almost done. Take these last  
21 two." I was, like, all right. So I owed him 4400.

22 Q. You said "take these last two." What are you talking about  
23 there?

24 A. Ounces.

25 Q. And you owed him how much?

1 A. I owed him 4400. So like a couple days, like I think maybe  
2 two, three days, he was going to Philly --

3 Q. Let me stop you there. So you said you owed him \$4,400?

4 A. Yes.

5 Q. And at some point after you owe him \$4,400, do you go on a  
6 trip with Antwuan Ball?

7 MR. ZUCKER: Objection. Leading.

8 THE COURT: Sustained.

9 BY MS. PETALAS:

10 Q. Well, do you see Antwuan Ball again after you owe him this  
11 \$4,400?

12 A. Yes.

13 Q. And when do you see Antwuan Ball?

14 A. I seen him in the circle.

15 Q. And what happened when you saw him in the circle?

16 A. He was saying he was ready to go to Philly or whatever for  
17 this Prepaid Legal event or whatever. I was, like, yeah --

18 Q. Let me stop you right there. You said he was getting ready  
19 to go to Philly for a Prepaid Legal event. What do you mean, a  
20 Prepaid Legal event?

21 A. I mean, that's what he was doing. I know he was doing the  
22 Prepaid Legal stuff by the girl, Micola (ph), and he said he was  
23 going to a convention out there. That's what he said, he was  
24 going to a convention with the Prepaid Legal.

25 So it was me, Bird, and Black in my car, and I was,

# EXHIBIT F

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :  
:  
Plaintiff, : Docket No. CR 05-100  
:  
v. :  
:  
ANTWUAN BALL, DAVID WILSON, : Washington, DC  
GREGORY BELL, DESMOND :  
THURSTON, JOSEPH JONES, and : March 5, 2007  
DOMINIC SAMUEL, : 9:15 a.m.  
:  
Defendants. :  
:  
:

VOLUME 11 - MORNING SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS  
UNITED STATES DISTRICT COURT JUDGE, and a JURY

## APPEARANCES:

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For Defendant  
Antwuan Ball: CARNEY & CARNEY  
John James Carney, Esq.  
South Building  
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Washington, DC 20004  
202.434.8234

1 Q. How do you know it's your gun?

2 A. Because I popped the clip out, and I had four aluminum  
3 hollow points in it -- well, three was left.

4 Q. And how many were in it when you handed it to  
5 David Wilson on February 6th?

6 A. Four aluminums.

7 Q. Did you recognize the ammunition?

8 A. Yes, sir.

9 Q. And did you recognize the gun?

10 A. Yes, sir.

11 Q. What, if anything did you do -- first of all --  
12 withdrawn.

13 Do you know who that other person was who retrieved the  
14 gun for David Wilson?

15 A. I -- no, sir.

16 Q. Did you see him before?

17 A. No, sir.

18 Q. So now you get the gun back -- your gun back from David  
19 Wilson. What, if anything, happens next?

20 A. Well, I get the gun back and I pulled around -- well, I  
21 pulled around the corner, an alley they call the Boat Alley, and  
22 I was sitting in the back in the car, and just sitting there  
23 smoking marijuana and --

24 Q. Let me withdraw -- interrupt you there.

25 Why didn't you leave right then? You have a murder

1 weapon with you. Why are you hanging out in Congress Park  
2 still?

3 A. I was trying to catch a few marijuana sales.

4 Q. What do you mean by that?

5 A. I was just sitting in the back hoping that some sales  
6 come through.

7 Q. Were you able to make a few sales?

8 A. Yes, sir.

9 Q. Okay. Tell us what happens next. Actually, I apologize  
10 again.

11 You said "Boat Alley." Can you see the Boat Alley on  
12 that map?

13 A. Yes, sir.

14 Q. Can you point it out with the pen? Point to it.

15 A. (Indicating).

16 Q. Can you point a little harder.

17 A. Point again?

18 Q. I'm sorry. I missed it. I missed the arrow. I got it.

19 For the record, you pointed to the -- it looks like an  
20 alley that's not marked, that looks to be in-between the street  
21 that's labeled Savannah Street and a street labeled Congress  
22 Street; is that correct?

23 A. Yes, sir.

24 Q. You pointed kind of to the middle of that alley; is that  
25 correct?

1 A. Yes, sir.

2 Q. Do you know the address of that street or anything, or  
3 you just know the alley?

4 A. Just the alley.

5 Q. Okay. What kind of car were you in on that day?

6 A. A white Crown Vic.

7 Q. Okay. Whose car was that?

8 A. Rental car.

9 Q. Who'd you rent it from?

10 A. Union Station.

11 Q. You got it from -- who'd you rent it from specifically,  
12 do you remember?

13 A. Yeah -- I don't know if it's Hertz. It might be Hertz.  
14 I can't remember exactly, but --

15 Q. Okay. And what happens next? You're making some sales  
16 and you're sitting there?

17 A. Yeah, I'm sitting, and then I see Twan pull up.

18 Q. You say "Twan." Just for the record, do you see Twan in  
19 the courtroom today?

20 A. Yes, sir.

21 Q. Can you please point him out based on his location and an  
22 article of clothing that he's wearing.

23 A. Yes, sir. He has on a white shirt with a black tie.

24 MR. LEON: May the record reflect the in-court  
25 identification of Antwuan Ball.

1 THE COURT: Request is granted.

2 MR. LEON: Thank you.

3 BY MR. LEON:

4 Q. You say you see Twan. What if anything happens when you  
5 see him?

6 A. Well, he pull up, and told me to come over to the car,  
7 and I walked over to the car and he told me that he got  
8 something that I might be interested in.

9 Q. Were those his exact words?

10 A. Yes, sir.

11 Q. Did you -- what did you understand that to mean?

12 A. He -- hopefully it was a gun.

13 Q. What'd you say, you hoped it was a gun?

14 A. Yeah.

15 Q. Why'd you hope it was a gun?

16 A. I mean, because -- that's what I was hoping he  
17 implicated. He didn't really talk because he had his mother  
18 right there.

19 Q. Okay. His mother was in the car?

20 A. Yes, sir.

21 Q. What kind of car was this? Do you remember?

22 A. A Civic, gray little Civic.

23 Q. Who was driving the car and who was in his car?

24 A. Well, Twan was driving the car.

25 Q. Okay. So what, if anything, did you say to him when he

1 said he had something for you.

2 A. He told me to wait right here, he be right back.

3 Q. And did you wait?

4 A. Yes, sir.

5 Q. Did he leave?

6 A. Yes, sir.

7 Q. Did he come back?

8 A. Yes, sir.

9 Q. How much later?

10 A. Like 20 minutes later.

11 Q. And did he come back walking or driving?

12 A. Driving.

13 Q. What was he driving?

14 A. The same car, a Honda Civic.

15 Q. Was his mother in the car?

16 A. No, sir.

17 Q. Tell us what happens once he gets back, alone in the car.

18 A. Well, when he get back, he reached in the back and pulled  
19 out an Uzi.

20 Q. Okay. Just for the record, what is an Uzi?

21 A. A semiautomatic weapon.

22 Q. Can you describe it for us?

23 A. Well --

24 Q. You can use your hands if you need to.

25 A. About this big (indicating), box shape.

1 Q. Keep your hands there. Just for the record, you're  
2 keeping your two hands approximately 8 to 10 inches apart. Does  
3 that sound about right?

4 A. Yes.

5 Q. Okay. Go ahead.

6 A. And --

7 Q. You said "box"?

8 A. Yeah, well, box-shape gun. It had a 25-round clip in it,  
9 and told me to give him 600 for it.

10 Q. And what did you do or say?

11 A. Well, I told him, yeah, I want it. I went in my pocket  
12 and pulled out some cash.

13 Q. How much?

14 A. I ended up giving him 500.

15 Q. Why didn't you give him 6?

16 A. Because I had some odd money in my pocket and I just told  
17 him that I -- I'll either give him the hundred dollars later,  
18 and he was like, "Well, do you got some marijuana on you?" And  
19 I said "Yeah," and I ended up giving him some marijuana for the  
20 other hundred.

21 Q. Okay. And then you took -- and then what happened?

22 A. Well --

23 Q. Did you take the weapon from him?

24 A. Yes, sir.

25 Q. Okay. Then what happens?

1 A. I got back in the Crown Vic and I pulled off.

2 Q. Okay. Did -- you said there was ammunition -- was there  
3 ammunition in the clip or was it a clip that could hold  
4 ammunition?

5 A. No, there was ammunition in there.

6 Q. Do you know how much ammunition there was?

7 A. No, sir.

8 Q. Okay. What happens next?

9 A. Well, I pull off and drive back around Quarles.

10 Q. And what do you do there?

11 A. Well, there I took the Ruger -- well, I took both of the  
12 guns and put them in an abandoned car.

13 Q. Another car?

14 A. Yes, sir.

15 Q. What kind of an abandoned car is this?

16 A. It was a Ford -- I can't remember exactly what type of  
17 car. It was a Ford, though, a Tempo or something like that.

18 Q. Why did you put two guns in an abandoned car?

19 A. Because I didn't want -- one of them was a murder weapon  
20 and the other one was, you know, 25-round clip Uzi, you know,  
21 so -- it was bulky, so I didn't really want to be riding around  
22 with it.

23 Q. Are you concerned that somebody's going to take these two  
24 weapons out of this abandoned car?

25 A. Naw, I was just concerned about the murder weapon,

1 A. In the building they called the rental office, the same  
2 place.

3 Q. On the third floor?

4 A. Third floor.

5 Q. Now, you earlier testified about an eighth of a key. Do  
6 you remember that?

7 A. Yes, sir.

8 Q. And I think you said it was 124 grams?

9 A. Yes, sir.

10 Q. And you've been talking about these sales of 93 grams.  
11 Is it fair to say that's less than an eighth of a key?

12 A. Yes, sir.

13 Q. Did David Wilson ever buy more than the 93 from you?

14 A. No, sir.

15 Q. Did you ever suggest to him that he should?

16 A. Yes, sir.

17 Q. Why?

18 A. Because I told him he would save more money.

19 Q. Explain that. How would he save more money if he bought  
20 an eighth of a key from you?

21 A. Because you -- he would have got an extra 31 grams for  
22 \$700.

23 Q. How much -- again, just for the record, how much were you  
24 selling him the 93s for?

25 A. 3300.

1 Q. And how much would you have sold him the eighth of a key  
2 for?

3 A. 4,000 powder.

4 Q. Did he give you a reason why he didn't go up that extra  
5 amount?

6 A. Naw. He said he trying to get there.

7 Q. Okay. Now, you talked about Antwuan Ball selling you  
8 that Uzi a few days after the incident in Hope Village. Do you  
9 remember that testimony?

10 A. Yes, sir.

11 Q. Had you ever purchased any other weapons from Antwuan  
12 Ball prior to that?

13 A. Yes, I purchased a Ruger.

14 Q. Okay. Tell us when that sale happened.

15 A. Summer of 2000.

16 Q. How do you remember it was the summer of 2000?

17 A. Because I just bought a '97 Lincoln.

18 Q. So, who'd you buy that '97 Lincoln from?

19 A. A car dealer down on South Dakota.

20 Q. And whose idea was it for you to buy that gun from  
21 Twan --

22 MR. ZUCKER: Objection to whose idea it was.

23 MR. LEON: I'll rephrase.

24 BY MR. LEON:

25 Q. Where was the sale?

1 A. In an alley off of Alabama Avenue turning into the  
2 Congress Park area.

3 Q. What, if anything, led you to meet up with Antwuan Ball  
4 to sell him the gun?

5 A. Well, because I was going around there to purchase some  
6 Ecstasy pills and at the time Antwuan was standing right there  
7 from the -- well, he had some Ecstasy -- the guy named Steve had  
8 some Ecstasy pills, which was one of Twan's friends, and while I  
9 was up there looking for some Ecstasy pills and some Hydro, Twan  
10 told me that he had a gun for me.

11 Q. And what, if anything, did you say to him?

12 A. I asked him how much he want for it.

13 Q. What, if anything, did he say to you?

14 A. 350.

15 Q. And what happened?

16 A. I went in my pocket and gave him 350.

17 Q. And did he give you the gun right then?

18 A. Yes, sir.

19 Q. And what kind of a gun was it?

20 A. A Ruger.

21 Q. What kind?

22 A. P-89 .9 millimeter.

23 Q. Now, is this the same Ruger or a different Ruger than you  
24 handed to David Wilson on February 6th?

25 A. Same Ruger.

1 Q. How do you know that?

2 A. Because I passed it to him.

3 Q. Was there ammunition in the Ruger when Antwuan Ball gave  
4 it to you?

5 A. Yes, sir.

6 Q. Was it the same or different ammunition than was in the  
7 Ruger that you handed to David Wilson on February 6th?

8 A. No, it was different ammunition.

9 Q. Now, you said you were there -- just quickly -- to buy  
10 some Ecstasy and Hydro. Was that for what purpose?

11 A. Personal use.

12 Q. Very quickly, what's Ecstasy?

13 A. It's a pill formed of various drugs formed in one little  
14 pill.

15 Q. And what about Hydro, what's that?

16 A. It's grade A marijuana.

17 Q. Okay. Other than this other incident you just described  
18 about buying the Ruger from Antwuan Ball in the summer of 2000,  
19 did you buy -- do you remember buying any other guns from him at  
20 any other time other than the two you just described?

21 A. No, sir, I don't.

22 Q. Okay. Now, you said you got locked up on March 5th of  
23 2001, correct?

24 A. Yes, sir.

25 Q. And in Maryland, correct?

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, : Docket No. CR 05-100  
: :  
Plaintiff : :  
v. : Washington, DC  
: :  
ANTWUAN BALL, : :  
DAVID WILSON, : :  
GREGORY BELL, : March 5, 2007  
DESMOND THURSTON, : :  
JOSEPH JONES, : :  
DOMINIC SAMUELS, : :  
: :  
Defendants : 2:10 p.m.  
. . . . . : . . . . .

VOLUME 11 - AFTERNOON SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS,  
UNITED STATES DISTRICT JUDGE, and a jury

## APPEARANCES:

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(202) 454-2811

1 A. No, I told them that I also bought a Beretta, but I didn't  
2 buy it from Antwuan Ball. So I guess Beretta got on the piece  
3 of paper, but I told them that I bought a Rueger nine-millimeter  
4 from Antwuan Ball.

5 Q. So you told that to the government or to the judge or who?

6 A. I just told them when I went over the plea agreement.

7 Q. What?

8 A. I told my lawyer when I went over the plea agreement that  
9 that should say Rueger.

10 Q. And so when the judge asked you about your plea in court,  
11 you didn't correct it, or your lawyer didn't correct it? Is  
12 that what you're saying?

13 A. Personally, I mean, Beretta, Rueger, it was a  
14 nine-millimeter, so I didn't really -- I was nonchalant with it.  
15 I didn't really pay it no attention. Once I told them, I just  
16 left it alone.

17 Q. I see. And today you're testifying that that  
18 nine-millimeter Rueger, which you previously described as a  
19 nine-millimeter Beretta, is the same gun that was used to shoot  
20 and kill Sam Phillips. Correct?

21 A. Yes. The nine-millimeter Rueger was used in the murder  
22 case. Yes, sir.

23 Q. Right. And you're now saying that that is the gun that you  
24 previously pled in court before Judge Lamberth as a Beretta?

25 A. Well, it was supposed to say Rueger, sir.

1 Q. Did you ever tell your lawyer to correct this?

2 A. Yes, sir.

3 Q. And you told him to tell that to the judge in writing?

4 A. Well, I just told him when we went over the papers that that  
5 shouldn't say Beretta, it should say Rueger.

6 Q. And did he correct that?

7 A. No, sir.

8 Q. Is it not true that when you were first asked about the  
9 handgun, you stated that it actually belonged to Mr. Wilson?

10 A. Yes, sir, I did state that it belonged to Mr. Wilson.

11 Q. And you carried that lie from sometime in March all the way  
12 through May 23rd of 2002?

13 A. Yes, sir.

14 Q. You didn't tell, in this proceeding on May 23rd, 2002, that  
15 that was a gun that Mr. Antwuan Ball gave to you or sold to you.  
16 Is that right?

17 A. Well, I told them two, three months prior to the trial on  
18 March 23rd (sic).

19 Q. You didn't tell, on May 23rd, 2002, this proceeding, that  
20 that gun came from Antwuan Ball through you?

21 A. Oh, I never was asked the question in the trial. No, sir, I  
22 didn't.

23 Q. Were you asked about where the gun came from with respect to  
24 the shooting, where it was located in the car, who owned the  
25 gun, and that?

1 A. Yes, sir.

2 Q. You didn't tell in that trial proceeding where the gun  
3 originally came from. Correct?

4 A. No, sir. I wasn't asked.

5 Q. Did you not also tell law enforcement that this gun, that  
6 you purchased it from Mr. Wilson?

7 A. Yes. I told law enforcement that, yes, sir.

8 Q. Did you not tell law enforcement that this gun was exchanged  
9 for a .38 revolver with someone by the name of Tedrick?

10 A. No, sir.

11 Q. Did you not tell law enforcement that after the shooting,  
12 you had purchased a gun from Wilson for \$500, and sold it to a  
13 friend who used to live in Laurel?

14 A. I don't think I told them 500, I think I told them 250, that  
15 I purchased it from Cool Wop for 250.

16 Q. And did you not tell the grand jury in December of 2003 that  
17 the friend lived in Fox Glen apartments, and that you didn't  
18 tell him it was hot?

19 A. No, I never told him -- I didn't know his apartment complex  
20 was called Fox Glen, but I did tell him that the gun was hot  
21 when I sold it to him.

22 Q. You've indicated that you have met with law enforcement at  
23 least 15 times since October of 2001. Do you remember when you  
24 first told law enforcement about the Beretta being a Rueger?

25 A. Yes, sir.

# EXHIBIT G

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA,	:	Docket No. CR 05-100
	:	
Plaintiff	:	
	:	
v.	:	Washington, DC
	:	
ANTWUAN BALL,	:	
DAVID WILSON,	:	
GREGORY BELL,	:	March 29, 2007
DESMOND THURSTON,	:	
JOSEPH JONES,	:	
DOMINIC SAMUELS,	:	
	:	
Defendants	:	1:00 p.m.
	:	

**VOLUME 26 - AFTERNOON SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS,  
UNITED STATES DISTRICT JUDGE, and a jury**

**APPEARANCES:**

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 GLENN S. LEON, ESQUIRE  
 GIL GUERRERO, ESQUIRE  
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 Antwuan Ball: JOHN JAMES CARNEY, ESQUIRE  
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 TIGHE, PATTON, ARMSTRONG,  
 TEASDALE, PLLC  
 1747 Pennsylvania Avenue, NW  
 Suite 300  
 Washington, DC 20006  
 (202) 454-2811

1 A. Yes, sir.

2 Q. I'm going to refer to page 12 of this.

3 Question: "Okay. What else in this conversation did  
4 he say about the murder? Did he say how he did it or anything  
5 like that, or was that pretty much the whole conversation?"

6 Answer: "No, he was like he came through to meet in  
7 the back and came down the hill, and that's how he killed him,  
8 like coming down. It's a back -- in the back of  
9 Congress Street, they can come out, you know, like on the blind  
10 side part of where the Lincoln. It's the Lincoln and it's the  
11 cut, and he came down that. He said he had a mask on and he  
12 shot him coming out of that cut right there."

13 Question: "Okay. I'm going to ask you to point out on  
14 a map later, but for now, was that in the same conversation he's  
15 telling you about this about coming through the cut wearing the  
16 mask?"

17 Answer: "Yes. Right."

18 Do you remember giving those answers to those  
19 questions?

20 A. Yes, sir.

21 Q. And were those answers true?

22 A. Yes, sir.

23 Q. Now, around this time - and when I say around this time, I  
24 mean 1995 and 1996 - do you know, yes or no, if Antwuan Ball  
25 carried any weapons?

1 A. Yes.

2 Q. How do you know that?

3 A. When his brother passed away, he was carrying two guns that  
4 was alike called Sig-Sauers.

5 Q. They both were Sig-Sauers?

6 A. Yes, sir.

7 Q. And do you know the caliber?

8 A. Yes, sir.

9 Q. What was the caliber?

10 A. Nine-millimeter.

11 Q. Both of them?

12 A. Nine-millimeter, yes, sir.

13 Q. Both guns were?

14 A. Yes, sir.

15 Q. And how do you know this?

16 A. Because I seen him with them.

17 Q. Do you know if Antwuan Ball was ever arrested around this  
18 time for carrying a gun?

19 A. Sometime around that time.

20 Q. How do you know that?

21 A. It was him and another guy.

22 Q. Who is that other guy?

23 A. A guy named Doo-Doo.

24 Q. Have you mentioned Doo-Doo earlier today?

25 A. Yes, sir.

1 Q. Same Doo-Doo?

2 A. Yes, sir.

3 Q. Tell us how you know that Antwuan was arrested on a gun  
4 charge with Doo-Doo.

5 A. When he got out, I asked him what he got locked up for.

6 Q. Who did you ask?

7 A. Antwuan.

8 Q. And what did Antwuan say to you?

9 A. He said him and Doo-Doo was in the car or something like  
10 that, and that he had to -- he had his gun on him. And he asked  
11 Doo-Doo to take the charge and he wouldn't take it.

12 Q. Antwuan asked Doo-Doo to take the charge?

13 A. Yes, sir.

14 Q. And Doo-Doo said he wouldn't?

15 A. Yes, sir.

16 Q. And do you know what if anything happened as a result of  
17 that?

18 A. He whooped him.

19 Q. Who whooped who?

20 MR. ZUCKER: Objection. Basis.

21 BY MR. LEON:

22 Q. What else did Antwuan tell you about this charge?

23 A. I just told you, sir, he told me that he whooped him.

24 Q. Antwuan told you that?

25 A. Yes. Because he wouldn't take the charge.

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	:
	:
Plaintiff,	: Docket No. CR 05-100
	:
v.	:
	:
ANTWUAN BALL, DAVID WILSON,	: Washington, DC
GREGORY BELL, DESMOND	:
THURSTON, JOSEPH JONES, and	: April 3, 2007
DOMINIC SAMUELS,	: 9:30 a.m.
	:
Defendants.	:
	:
	:
	:

**VOLUME 28 - MORNING SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS  
UNITED STATES DISTRICT COURT JUDGE, and a JURY**

APPEARANCES:

For the United States:	UNITED STATES ATTORNEY'S OFFICE Glenn S. Leon, Assistant United States Attorney Ann H. Petalas, Assistant United States Attorney, Gilberto Guerrero, Assistant United States Attorney 555 4th Street Washington, DC 20001 202.305.0174
For Defendant Antwuan Ball:	CARNEY & CARNEY John James Carney, Esq. South Building 601 Pennsylvania Avenue, N.W. Washington, DC 20004 202.434.8234

1 Q. And just before he hit you, tell us what he said to you  
2 about this 10th Place beef.

3 A. Not -- it wasn't like just before he hit me. It was like  
4 back some time, in '97.

5 MR. TABACKMAN: Your Honor, can we just have -- objection.  
6 This is --

7 THE COURT: Mr. Leon?

8 Mr. Leon?

9 MR. LEON: I was just trying to reorient the witness. I  
10 agree it's a bit repetitive. I was trying to reorient the  
11 timeline.

12 THE COURT: Well, do it without the repetition then.

13 MR. LEON: Okay.

14 BY MR. LEON:

15 Q. Let's just get to the time you got hit, okay?

16 A. Yes, sir.

17 Q. You said you got hit in January, you think it was 2001?

18 A. No, 2000.

19 Q. Okay. Where were you when you got hit?

20 A. In Wop house.

21 Q. Where is that?

22 A. 1313 building.

23 Q. Do you know the apartment?

24 A. I don't know the door number.

25 Q. And just where -- did he live with anyone in this

1 apartment?

2 A. Yes.

3 Q. Who?

4 A. Dominique.

5 Q. What floor was the apartment on?

6 A. Third floor.

7 Q. Where did Antwuan hit you?

8 A. In the house.

9 Q. Where on your body?

10 A. In my mouth.

11 Q. And do you have any permanent effects from that assault?

12 A. Yes, sir.

13 Q. What?

14 A. My tooth gone.

15 Q. And I'm going to ask you to just show us what you're

16 talking about.

17 A. (Indicating.)

18 Q. For the record, you're showing us -- it looks like you're  
19 missing a front tooth?

20 A. Yes, sir.

21 Q. What about the tooth, the other front tooth? Is there  
22 anything with that?

23 A. The nerve gone dead in it.

24 Q. Who else was present, if anyone, when you got hit in the  
25 mouth by Antwuan in Wop's apartment?

1 A. Me, Phil and Wop.

2 Q. You, Phil, Wop, Antwuan?

3 A. Yes.

4 Q. That's four people. Anyone else?

5 A. No.

6 Q. When did this happen? In other words, what time of day?

7 A. In the daytime, like in the evening.

8 Q. Was it light out or not?

9 A. It was light out.

10 Q. Take us back just an hour or two before. Before you were  
11 in the apartment, where were you?

12 A. I was outside.

13 Q. Where?

14 A. I think I was going to the truck.

15 Q. What truck?

16 A. Ice cream truck.

17 Q. Whose ice cream truck?

18 A. A guy name T-Bone truck.

19 Q. And what were you going to do there?

20 A. Get some Blunts -- I mean, not no Blunts. Some Backwoods  
21 and something to drink.

22 Q. Okay. Did you do that?

23 A. Yes.

24 Q. Were you with anyone or alone?

25 A. When I got back in the hallway, Antwuan was coming

1 through the back.

2 Q. Okay. And what happened next?

3 A. We went upstairs in Wop house.

4 Q. Whose idea was it to go upstairs in Wop's house.

5 A. He asked me what I was doing. I said I'm going to go to  
6 Wop's house and play the game. He said, "Hold on. I'm going to  
7 park and go up there with you."

8 Q. Okay. And did he?

9 A. Yes.

10 Q. And was anyone with you and Antwuan when the two of you  
11 went up to Wop's house?

12 A. No.

13 Q. When you got up to Wop's house, tell us who, if anyone,  
14 was inside.

15 A. Phil and Wop was playing the game.

16 Q. What game?

17 A. Football, the Madden.

18 Q. And tell us what happens next.

19 A. It was my turn on the game and I started playing Wop on  
20 the game.

21 Q. Okay. And so where are you exactly in the apartment?

22 A. I'm on like the right-hand side in the living room.

23 Q. Okay. And where is Wop?

24 A. Like a little bit behind me on the left-hand side.

25 Q. And Antwuan?

1 received.

2 (Government's Exhibit 403.1 admitted into the record.)

3 BY MR. LEON:

4 Q. And before we show this, Mr. Capies, I'm just going to  
5 note there are some letters an A, a P and a W and another circle  
6 and just a couple marks there.

7 Do you have an understanding, just yes or no, as to what  
8 those marks are?

9 A. Yes, sir.

10 Q. Okay. And will you be able to explain those marks to us  
11 once we show this to the jury?

12 A. Yes, sir.

13 MR. LEON: If we could use the ELMO.

14 BY MR. LEON:

15 Q. For the record, Mr. Capies, I'm showing you what's now in  
16 evidence as Government's 403.1 and I'm going to try to get as  
17 much of this on as I can.

18 Do you see that in front of you?

19 A. Yes, sir.

20 Q. Okay. Can you explain to us what those letters are and  
21 other markings are? And for the record -- actually, let me  
22 point to them and tell us if you can tell us what they are, if  
23 you know.

24 For the record, I'm going to refer to room B. And first  
25 I'm going to -- over here it says "TV." Is it fair to say

1 that's where a television was?

2 A. Yes, sir.

3 Q. Okay. I'm going to point next over here to what looks  
4 like a circle, just a little bit to the right of and across from  
5 the TV. It's to the left on this photograph.

6 A. Yes, sir.

7 Q. What's that, if you know?

8 A. That's where I was sitting. It was a bean bag right  
9 there.

10 Q. You were here?

11 A. Yes, sir.

12 Q. Okay. What does the W indicate?

13 A. That's where Wop was sitting at.

14 Q. What about P?

15 A. Where Phil was sitting at.

16 Q. And there's an A behind Phil and Wop. Who's that?

17 A. Antwuan was sitting right there.

18 Q. And there are two X's right over there on the rectangle.  
19 What is that?

20 A. Two guns was right there.

21 Q. Okay. Whose guns were those?

22 A. Me and Wop's.

23 Q. Okay. Tell us what kind of guns they were.

24 A. A Ruger and a Taurus.

25 Q. A Ruger and a Taurus?

1 A. Yes, sir.

2 Q. Whose was whose?

3 A. The Ruger was Wop's and the Taurus was mine.

4 Q. What caliber were they?

5 A. Nines.

6 Q. Okay. Tell us what happened. I think you said you were  
7 playing -- were you on the bean bag when you're playing the --

8 A. Yes, sir.

9 Q. Okay. And who else is playing it at this time?

10 A. Me and Wop playing each other.

11 Q. And what is Phil doing?

12 A. Sitting right there, twisting up weed.

13 Q. Okay. And what was Antwuan doing initially?

14 A. Sitting in the back watching the game, watching us play.

15 Q. Okay. Tell us what happens.

16 A. Me and Wop was playing the game. And it was some shells  
17 and the two guns sitting up on the table and Antwuan started  
18 messing with them, with the two guns. And Wop was like, "Man,  
19 stop playing with those guns behind our back." And Phil was  
20 like, "Put them guns up."

21 And Antwuan was like, "Man, I know what I'm doing."

22 And at one point in time, Antwuan asked Wop, can he use  
23 the bathroom. And he was like, "Go ahead." He went to use the  
24 bathroom while we was playing the game and then he came back and  
25 sat down.

1           Then we was still playing the game. He was like, "Can I  
2 use the bathroom again?"

3           And he was like, "Why you keep asking me to use the  
4 bathroom, man? Go ahead and use the bathroom."

5 Q.       How much later was it when Antwuan asked to use the  
6 bathroom a second time?

7 A.       It was like five minutes or so.

8 Q.       Did he say anything as to why he wanted to use the  
9 bathroom again?

10 A.       He said like his wife fixed him some food and it got him  
11 having the runs.

12 Q.       Did he go to the bathroom?

13 A.       Yes.

14 Q.       Tell us what happens.

15 A.       He came back. And we just sitting there playing, just  
16 sitting there. Wasn't nothing going on. And Phil said  
17 something again about him playing with the guns.

18           And then I came by -- I could barely see him. I was a  
19 little bit to the right.

20 Q.       Barely see who?

21 A.       Antwuan. But I could see Wop and Phil because they up on  
22 stools, sitting down. And then while we playing the game, I  
23 heard someone go, "Fuck," like -- I didn't pay no attention to  
24 it. I heard Antwuan cuss.

25           So I don't say nothing. I kept playing the game. I seen

1 Wop jump up and run to the back. And then I seen Phil race to  
2 the back. Then I was still sitting on the bean bag. I said,  
3 "Man, stop playing. Man, come on, play the game."

4 Q. Let me stop you there. When you say "the back," can we  
5 see on Government's 403.1 -- can you point to the direction?  
6 Which rooms did Phil and Wop run towards?

7 A. At that time, I didn't know exactly what room Wop ran to  
8 until later, but Phil ran towards the bathroom.

9 Q. Okay. And for the record, can we see the bathroom here?

10 A. Yes.

11 Q. What room is the bathroom on this Government's 403.1?  
12 You can just tell us, is it labeled with a letter?

13 A. Room D.

14 Q. Okay. So continue. So Phil and Wop run away at first.  
15 And then what happens?

16 A. I told them, I was like, "Man, stop running. Y'all  
17 playing." And I turned around.

18 Antwuan had both of the guns in his hand. And he was  
19 like, "Get up."

20 I was like, "Man, go ahead with those guns. Stop playing  
21 like that, man."

22 He was like, "Aww, you think you got balls?" And when I  
23 turned back around, he smacked me with the gun.

24 Q. Which gun?

25 A. I can't remember which gun it was, but I know he smacked

1 me with the gun.

2 Q. How many times?

3 A. Once at that time.

4 Q. Okay. Where -- where exactly? Which side of your mouth  
5 or face did he hit?

6 A. On the left side.

7 Q. And tell us what happens when he smacks you on that left  
8 side of your mouth?

9 A. I was like, "Man, what you doing? What you doing?" I  
10 asked him what he do it for.

11 He was like, "Oh, you know what's going on. Y'all  
12 supposed to be killing me."

13 I was like, "What? I don't know what's going on, man.  
14 What you talking about?"

15 He was like, "Really?" He was like, "Get up."

16 I got up, got myself together. He told me, walk towards  
17 the back room. He had the two guns behind my head. And I  
18 started walking to the back room and I was telling Wop -- you  
19 know what I'm saying -- "I'm coming back here, it's me." I  
20 started walking back towards the room.

21 Q. Why did you say that? Did you know where Wop was when  
22 you said, "I'm coming back here, it's me"?

23 A. At that time, no, sir.

24 Q. Did you know if Wop was somewhere in the apartment?

25 A. Yes. He had to be back there somewhere.

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1 Q. Why do you say that?

2 A. Because that's the way he ran.

3 Q. Okay. Tell us what happens next.

4 A. When he walked me back there, I'm telling Wop, "Man, it's  
5 me coming back here, Wop," because I know there's a gun in the  
6 house.

7 Q. In other words, another gun?

8 A. Yes.

9 Q. Other than the two in Antwuan's hands?

10 A. Yes, sir.

11 Q. What other gun was in the house?

12 A. An AK.

13 Q. An AK?

14 A. Yes, sir.

15 Q. Where was that gun?

16 A. It usually be under the mattress of the bed in Wop room.

17 Q. And just for the record, which room is Wop's room, if we  
18 can see it on this map?

19 A. Room E, sir.

20 Q. E?

21 A. Yes, sir.

22 Q. And whose gun was that, that AK?

23 A. Wop's.

24 Q. Had you seen it before?

25 A. Yes, sir.

1 A. He went to the door, to the bathroom door, where Phil was  
2 at.

3 Q. And?

4 A. He was asking Phil something. I couldn't hardly hear  
5 him. Then he came back to me and he said, "Phil said you know  
6 where he be holding his money at."

7 I said, "I don't know." And then he kicked me.

8 Q. Where'd he kick you?

9 A. In my mouth.

10 Q. Which side?

11 A. Like on this side of my mouth.

12 Q. For the record, your right side?

13 A. Yes, sir.

14 Q. Which is not the side you were struck with the gun?

15 A. Right.

16 Q. When he struck you -- when he kicked you in the mouth,  
17 what happened next? Did you lose consciousness at any point?

18 A. Yes, sir.

19 Q. When?

20 A. I was dazed when he was kicking me and hitting me.

21 Q. When you said "dazed," were you passed out cold?

22 A. I wasn't passed out cold, but I was dizzy.

23 Q. Tell us what happens after Antwuan kicks you in the  
24 mouth.

25 A. He got one of the guns in his hand pointing, his left

1 side, pointing to me, going in the drawers, Wop's drawers.

2 Q. Do you know what he was looking for?

3 MR. ZUCKER: Objection.

4 THE WITNESS: His money. That's what he asked me about.

5 BY MR. LEON:

6 Q. Okay. At the time he's looking through the drawers, is  
7 he saying anything to you?

8 A. Naw. He just looking in the drawers and watching me.

9 Q. Did he take anything out of the drawers?

10 A. Yes.

11 Q. What?

12 A. His money and some coke.

13 Q. Could you tell how much money he took? Could you tell at  
14 that time how much money he took?

15 A. No, sir.

16 Q. Could you -- was it cash?

17 A. Yes.

18 Q. And could you tell how much drugs he took at that time?

19 A. No, sir.

20 Q. What kind of drugs was it?

21 A. Crack.

22 Q. What happens next? You see him take the money and the  
23 crack out of the drawer?

24 A. He started stuffing it in his pants.

25 Q. Okay. What happens next?

1 A. Then he told me, turn over, because I was starting to  
2 crimp, laying over when he had the gun pointed to me. And I  
3 turned over.

4 And he was like, "Man" --

5 Q. Turn over which way? Are you facing up or facing down  
6 now?

7 A. I was turned this way (indicating) and then I turned back  
8 over facing him.

9 Q. So where are you looking at this point?

10 A. I'm looking at him.

11 Q. Okay.

12 A. And then he took his hands and clicked both of the  
13 hammers back on the guns.

14 Q. Where were the guns aimed?

15 A. At me.

16 Q. Where on you?

17 A. At my face.

18 Q. What happens next?

19 A. He told me, grab the pillow.

20 Q. Did you?

21 A. Naw.

22 Q. Why not?

23 A. Because he told me to put the pillow on my head.

24 Q. Why didn't you do that?

25 A. Because I knew he was going to kill me.

1 Q. What'd you do?

2 A. I stood. I said, "I ain't putting no pillow on my head."  
3 I said, "Think about what you about to do. You know what I'm  
4 saying? You ain't going to get away with it."

5 And he started crying.

6 Q. He started crying?

7 A. Yes, sir.

8 Q. Did he say anything when he started crying?

9 A. Nothing. He was just looking at me.

10 Q. What happens next?

11 A. I closed my eyes. I was like, "You gonna kill me." You  
12 know what I'm saying? So I closed my eyes. And when I started  
13 looking back up, he was leaving out.

14 Q. Did you see him leaving the room?

15 A. Yeah, like his back, when he was leaving.

16 Q. What happens next?

17 A. When I hear the door close, I jump up and go in the  
18 bathroom. And Phil was like, "Damn, man, your face fucked up."  
19 And I look in the mirror and my mouth was swollen up.

20 Q. Was what?

21 A. Swollen. I started running the cold water and put my  
22 face in the water, got myself together and I went outside.

23 Q. Outside?

24 A. Outside the building, outside the house, outside the  
25 building.

1 Q. What happened next.

2 A. Wop told me to take him up the street, because he  
3 couldn't take him up there because his mom would ask him what  
4 happened to him, so he asked me to take him up there.

5 Q. Take -- you were going to take Phil up where?

6 A. To his house, so he could go to the hospital.

7 Q. So did you do that?

8 A. Yes.

9 Q. How did you take Phil, did you carry him?

10 A. Naw, I -- my car was parked out back.

11 Q. So, did you --

12 A. We jumped in the car.

13 Q. Tell us what happened.

14 A. I took him -- something was going on on Congress Street,  
15 like traffic. I can't remember what it was, so I went through  
16 the back of the alley and came around. When I got up to  
17 Savannah and Congress, Phil was like, look who right there. I  
18 look up. It was Antwuan standing on the corner.

19 Q. Okay.

20 MR. LEON: Your Honor, can we publish to the jury  
21 Government's 100.1, in evidence?

22 BY MR. LEON:

23 Q. So, where was Antwuan when you saw him this next day?

24 And for the record I'm asking you to point and indicate  
25 on Government's 100.1.

1 A. It's kind of hard to see it.

2 Q. Is it on the map?

3 A. Yes.

4 Q. When you say it's kind of hard to see --

5 A. It's right on the corner of Savannah Place.

6 Q. Savannah Place.

7 MR. LEON: Mr. Mazzitelli, can you enlarge that portion of  
8 the map?

9 BY MR. LEON:

10 Q. Can we see it now?

11 A. Right.

12 Q. Can you tap on the enlarged portion of Government's  
13 100.1, where you saw Antwuan the next day?

14 A. Yes, sir. (Indicating.)

15 Q. Okay. For the record, you put a dot right on the first A  
16 in Savannah Place.

17 A. Yeah, it's more over the top of the first part of the V.  
18 When I hit it, it went to the A.

19 Q. Right around that intersection --

20 A. Yes, sir.

21 Q. -- of Congress Street and Savannah Place?

22 A. Yes, sir.

23 Q. Okay. Tell us what happens when you see Antwuan?

24 A. Me and Phil -- it's an alley right there. We coming  
25 right there. He start walking towards the car and Phil was

1 like, "Keep going, man." He had pulled out the two guns he took  
2 from us that day, the day that he hit me in my mouth.

3 Q. Who took the two guns?

4 A. Antwuan -- and pulled them from out his coat pockets.

5 Q. Did you see them?

6 A. Yes, sir.

7 Q. Did you recognize them?

8 A. Yes, sir.

9 Q. What did you recognize those two guns to be?

10 A. Because they was me and Wop's guns.

11 Q. The guns you had in the apartment the day before?

12 A. Yes, sir.

13 Q. Did Antwuan -- can you show us how he took them out of  
14 his -- and if you need to stand, please do.

15 A. He was standing on the corner, and he had a coat.

16 MS. WICKS: I can't hear.

17 THE COURT: Can you speak up so everyone can hear you?

18 THE WITNESS: He came out of the coat with the guns like  
19 this in his hand.

20 BY MR. LEON:

21 Q. One was in each hand?

22 A. Yes, sir.

23 Q. And did he take them out of a pocket of a coat?

24 A. It was like a maintenance man's coat he had on.

25 Q. Okay. What kind of coat?

1 A. Maintenance.

2 Q. Okay. You can sit down. Just so the record is clear,  
3 did you say "maintenance man's"?

4 A. Yes, sir.

5 Q. Okay. Go ahead. So he takes the two guns out. What  
6 happens next?

7 A. I tell Phil, "I ain't going to pull up, he might think we  
8 trying to run him over and start firing at the car."

9 Q. What happens next?

10 A. I stop. So, he come to my side of the window. I rolled  
11 the window down.

12 Q. Does he have the guns in his hands at this point?

13 A. Yes, sir.

14 Q. And you don't drive away?

15 A. Naw.

16 Q. Why?

17 A. Because I'm trying to figure out what happened, why I'm  
18 the one that got hit in my mouth and what's going on. And if I  
19 pull off, he might start shooting.

20 Q. Okay. So, what happens?

21 A. I stopped. I asked him, I said, "Man, what's up man,  
22 what's going on?" "I'm trying to holler at you." So he says --

23 Q. I'm sorry, who says that?

24 A. Antwuan.

25 Q. Antwuan says that to you?

1 Q. What happened then? Did you leave?  
2 A. Yes, I left.  
3 Q. And had you -- where'd you go?  
4 A. Back around the park. Went up to Wop house.  
5 Q. And how'd you get there?  
6 A. In the car I was driving.  
7 Q. Did Birdman stay where he was or- --  
8 A. He stayed where he was at.  
9 Q. Now, you said you went to Wop's apartment?  
10 A. Yes.  
11 Q. During this conversation, just yes or no, was there a  
12 discussion with Wop about Antwuan offering to return what was  
13 taken?  
14 A. Yes, sir.  
15 Q. First of all, what was taken?  
16 A. Like, \$3800, and like two ounces of crack.  
17 Q. And what about those guns?  
18 A. And the two guns.  
19 Q. And tell us what Wop said to you during this  
20 conversation.  
21 A. He said Birdman told him that Antwuan said he was going  
22 to give him his money back.  
23 Q. And what was your reaction to this?  
24 A. I was kind of mad. I told him, you know --  
25 Q. Who's "him"?

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :  
:  
Plaintiff, : Docket No. CR 05-100  
:  
v. :  
:  
ANTWUAN BALL, DAVID WILSON, : Washington, DC  
GREGORY BELL, DESMOND :  
THURSTON, JOSEPH JONES, and : April 4, 2007  
DOMINIC SAMUELS, : 9:36 a.m.  
:  
Defendants. :  
:  
:

VOLUME 29 - MORNING SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS  
UNITED STATES DISTRICT COURT JUDGE, and a JURY

APPEARANCES:

For the United States: UNITED STATES ATTORNEY'S OFFICE  
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Ann H. Petalas, Assistant United  
States Attorney,  
Gilberto Guerrerc, Assistant  
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202.305.0174

For Defendant  
Antwuan Ball: CARNEY & CARNEY  
John James Carney, Esq.  
South Building  
601 Pennsylvania Avenue, N.W.  
Washington, DC 20004  
202.434.8234

1 doing it together. But back then, it was like -- wasn't nobody,  
2 you know, have a lot of coke like that, you know what I'm  
3 saying? They was getting like wholesales and stuff like that,  
4 so you wouldn't know what they was doing.

5 And we was cruddy little dudes. Back then, we would  
6 steal from each other, so -- not really, I can't really recall  
7 times that the other group of guys back from '92 was really  
8 stashing their stuff because I ain't really seen it, but like  
9 with me and Don, I knew where me and him was stashing stuff at  
10 because we was doing it together.

11 Q. Okay. Now, let's go to '96 to 2001. Same question: Did  
12 you ever see people, the people you've talked about -- just yes  
13 or no -- where they would stash their drugs, if they would stash  
14 their drugs?

15 A. Yes.

16 Q. And who would those people be?

17 A. LT, Wop, Dazz, Terrance. That's all I can remember was  
18 stashing.

19 Q. Okay. Now, we've talked about stashing guns and drugs  
20 just now, during this early part of the morning. Did you ever  
21 hold guns for Antwuan?

22 A. Yes.

23 Q. Okay. What guns have you held for Antwuan?

24 A. An SK-style rifle and a .45 machine gun.

25 Q. Now, Mr. Capies, you testified a few different times

1 during your testimony that you've been locked up since July 3rd  
2 of 2001, correct?

3 A. Yes, sir.

4 Q. Tell us the circumstances that led to your arrest on that  
5 date, July 3rd of 2001.

6 A. I got --

7 Q. Where were you?

8 A. I was in my baby mother house.

9 Q. For the record, what's that address?

10 A. 3408 13th Place, Southeast.

11 Q. What happened?

12 A. What happened was the FBI came and kicked the door in.

13 Q. Did they have a search warrant?

14 A. Yes, sir.

15 Q. What time of day was this, if you remember?

16 A. Early in the morning.

17 Q. And tell us what happened.

18 A. They kicked the door in and searched the house. And for  
19 a minute, they searched the house and they didn't find the guns.

20 Q. When you say "a minute," do you mean 60 seconds or do you  
21 mean more than that?

22 A. I mean -- that's a figure of speech. I didn't mean to  
23 say that. They searched the house for a while.

24 Q. Okay. And tell us what happened.

25 A. They searched the house for a while. They didn't find

1 nothing. They found -- yeah, they did. They found one gun that  
2 was broke. That was a Ruger. That's the gun I had. And they  
3 found some handcuffs and some court papers and stuff like that,  
4 pictures. And I had some weed that I was smoking and they found  
5 that.

6 They was just -- then some lady asked them, did they  
7 search the closet? And this was after they numbered everything  
8 or whatever.

9 Q. So they first search for a while, they find a Ruger.  
10 What caliber is that Ruger?

11 A. A 9 millimeter.

12 Q. Whose Ruger is that?

13 A. It was mine.

14 Q. Did they find some handcuffs? Whose handcuffs were  
15 those?

16 A. This girl was about to get locked up one day and they had  
17 her on the curb and she got away. And Wop called this lady to  
18 bring the handcuff key to get the handcuffs off her. And I  
19 forgot, they was on top of the shelf and I left them in there.

20 Q. And you said pictures. Whose pictures were those?

21 A. Different pictures, some my baby mother's and some mine.

22 Q. And you said weed. Whose weed was that?

23 A. It was mine.

24 Q. How much weed was that?

25 A. It was like two bags, something like that.

# EXHIBIT H

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, : Docket No. CR 05-100  
: :  
Plaintiff : :  
v. : Washington, DC  
: :  
ANTWUAN BALL, : :  
DAVID WILSON, : :  
GREGORY BELL, : April 16, 2007  
DESMOND THURSTON, : :  
JOSEPH JONES, : :  
DOMINIC SAMUELS, : :  
Defendants : 1:55 p.m.  
\* \* \* \* \*

VOLUME 34 - AFTERNOON SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS,  
UNITED STATES DISTRICT JUDGE, and a jury

APPEARANCES:

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GLENN S. LEON, ESQUIRE  
GIL GUERRERO, ESQUIRE  
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STEVEN CARL TABACKMAN, ESQUIRE  
TIGHE, PATTON, ARMSTRONG,  
TEASDALE, PLLC  
1747 Pennsylvania Avenue, NW  
Suite 300  
Washington, DC 20006  
(202) 454-2811

1 Q. And when you arrived at that location, what happened?

2 A. He was standing -- there's some steps right there. He was  
3 standing on the steps when I pull up. And he just had a  
4 disturbed look on his face.

5 Q. He had what type of look?

6 A. A disturbed look, an angry look, like something was wrong.

7 Q. In that posture or condition, what did he say to you?

8 A. I rolled the window down and he came to the car. And as he  
9 was walking to the car, he had his hands in his pockets, so I  
10 asked him, "What's up?"

11 And he was like, "I just had to fuck these young-uns up  
12 around here."

13 Q. Are those the words that Mr. Ball used?

14 A. Yes.

15 Q. And did you ask him what he meant?

16 A. Yeah. I was like, "What young-uns?"

17 He was like, "Man, these little young dudes around  
18 here, man, they think they going to take over the strip."

19 I said, "What you mean, 'take over'?"

20 He said, "Ain't no problem. Don't worry about it."

21 So I was like, "What happened?"

22 He was like, "I just had to knock this nigga Munya's  
23 teeth out his mouth." I just looked at him. I didn't know who  
24 Munya was. And so I was like, "Is everything okay?"

25 He was like, "Yeah. Wop and Munya, they supposed to be

1 planning on killing me." He said somebody came and told him  
2 that.

3 So I was like, "Killing you? And you standing around  
4 here?" Because I have heard of Wop, and from what I heard --

5 MS. WICKS: Objection.

6 MR. ZUCKER: Objection.

7 BY MR. GUERRERO:

8 Q. Without telling us what you heard, just tell us what else  
9 Mr. Ball said in that conversation.

10 A. I was looking at him like, "Why is you standing here, then?"  
11 And he was looking like he ain't have a care in the world, like  
12 it's nothing.

13 Q. Did you ever get a chance to see what if anything Mr. Ball  
14 had in his hands or his pockets?

15 A. Yes, he had a gun in his pocket.

16 Q. Can you recall which pocket it was?

17 A. Yeah, his right pocket.

18 Q. And what part of the gun if any did you see?

19 A. The butt, the butt. He had on a kind of trench coat like,  
20 and I see the butt part sticking out.

21 Q. And what happened next after that conversation?

22 A. Nothing too much. We just chatted for a minute. I didn't  
23 want to sit there, you know. I mean, "You just telling me what  
24 you done, and you standing there like you ain't got a care in  
25 the world." So I talked fast, and I left.

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, : Docket No. CR 05-100  
: :  
Plaintiff : :  
v. : Washington, DC  
: :  
ANTWUAN BALL, : :  
DAVID WILSON, : :  
GREGORY BELL, : April 17, 2007  
DESMOND THURSTON, : :  
JOSEPH JONES, : :  
DOMINIC SAMUELS, : :  
Defendants : 2:10 p.m.  
· · · · · : · · · · ·

VOLUME 35 - AFTERNOON SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS,  
UNITED STATES DISTRICT JUDGE, and a jury

APPEARANCES:

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1 Mr. Tabackman was asking you about, a quarter key to a 62 that  
2 you would sell on a weekly basis. Do you remember that topic?

3 A. Yes.

4 Q. And you said that sometimes yes, sometimes no. Was there a  
5 particular quota that you met every week with your crack cocaine  
6 sales?

7 A. No. Some days was better than others. Sometimes I would do  
8 more, sometimes I would do less.

9 Q. And what factors kind of controlled what kind of sales you  
10 had during any given week?

11 A. No real factors. It was depending upon who I was selling my  
12 crack cocaine to, how fast they could sell theirs.

13 Q. Mr. Tabackman was then also asking you about where you met  
14 Michael Hall. You made reference to your mother's house?

15 A. Yes.

16 Q. Where did your mother live?

17 A. Congress Street.

18 Q. Do you remember the address?

19 A. Yes. 754.

20 Q. 754 what?

21 A. Congress Street.

22 Q. Was that an apartment, or is that a house?

23 A. House.

24 Q. And how long did she live there? What years did she live  
25 there?

1 A. Maybe since '86.

2 Q. Was that the only location that you ever met Michael Hall?

3 A. No.

4 Q. And similar topic, you were asked about meeting John Richard  
5 Proctor, and Mr. Tabackman was asking you about what you said  
6 out in Maryland as opposed to what you're saying here. Where  
7 was it that you recall you would meet John Richard Proctor?

8 A. Can you rephrase the question a little better?

9 Q. Sure. Sure. In your recollection, when you dealt with John  
10 Richard Proctor, you were going to -- where would you meet him?

11 A. Oh, at his house, my house, Geraldine's, anywhere that was  
12 convenient for the both of us.

13 Q. Was it ever only limited to one particular location?

14 A. No.

15 Q. And you were asked about Munya. Do you remember that?

16 A. Yes.

17 Q. That person that you knew as Munya, and talking about the  
18 topic where Mr. Tabackman asked you about you having a  
19 conversation with Antwuan Ball either on the day of or the  
20 following day after Antwuan Ball tells you what had just  
21 happened. Do you remember that?

22 A. Yes.

23 Q. And you described Antwuan Ball during your conversation as  
24 disturbed?

25 A. Yes.

# **EXHIBIT I**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	:	Docket No. CR 05-100
Plaintiff	:	
v.	:	Washington, DC
ANTWUAN BALL,	:	
DAVID WILSON,	:	
GREGORY BELL,	:	April 30, 2007
DESMOND THURSTON,	:	
JOSEPH JONES,	:	
DOMINIC SAMUELS,	:	
Defendants	:	9:15 a.m.

VOLUME 42 - MORNING SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS,  
UNITED STATES DISTRICT JUDGE, and a jury

## **APPEARANCES:**

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GLENN S. LEON, ESQUIRE  
GIL GUERRERO, ESQUIRE  
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Antwuan Ball:  
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(202) 434-8234

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TIGHE, PATTON, ARMSTRONG,  
TEASDALE, PLLC  
1747 Pennsylvania Avenue, NW  
Suite 300  
Washington, DC 20006  
(202) 454-2811

1 Q. How do you know that Antwuan Ball did other things in this  
2 apartment?

3 A. I saw him.

4 Q. What did you see Antwuan Ball do in this apartment?

5 A. He had a little computer lab set up there, entertained women  
6 there.

7 Q. Do you know -- just first yes or no, do you know, yes or no,  
8 if Antwuan Ball, during this time you knew him, '99 to 2001,  
9 ever possessed any guns?

10 MR. TABACKMAN: Leading. Objection.

11 THE COURT: Overruled.

12 A. Sure.

13 BY MR. LEON:

14 Q. How do you know that?

15 A. I saw with my own eyes.

16 Q. What kind of guns with your own eyes did you see  
17 Antwuan Ball possess?

18 A. Handguns, semiautomatic weapons.

19 Q. And when you saw Antwuan Ball with these weapons, where did  
20 you see Antwuan Ball with these weapons?

21 A. I mean, could have been in the apartment --

22 MR. TABACKMAN: Objection --

23 MR. ZUCKER: Objection.

24 MR. TABACKMAN: -- speculation. Move to strike.

25 A. -- street.

1                   THE COURT: Why don't you clarify?

2 BY MR. LEON:

3 Q. Did you see him, yes or no, possess guns, weapons, in the  
4 apartment you just described?

5 A. Yes.

6 Q. Okay. Did you see Antwuan Ball, yes or no, possess weapons  
7 out on the street?

8 A. Yes.

9 Q. Did you ever supply any -- excuse me. Did you ever supply  
10 any guns yourself to Antwuan Ball?

11 A. Yeah, I gave him a gun or two.

12 Q. Okay. What guns do you remember, you remember giving to  
13 Antwuan Ball?

14 A. I know an Uzi. I remember giving him an Uzi.

15 Q. You gave him an Uzi?

16 A. Yeah. It was once I gave him an Uzi.

17 Q. Do you remember, yes or no, if you gave him any other guns  
18 other than the Uzi that you can remember?

19 A. Naw, not that I recall.

20 Q. Did you -- through your contacts with Antwuan Ball buying  
21 and selling crack cocaine and powder cocaine to each other, did  
22 you get to know some of the people that Antwuan Ball sold his  
23 drugs to?

24 A. Yes.

25 Q. Okay. And how did you get --

1 A. -- I learned it from Cody.

2 MS. WICKS: Objection. Move to strike.

3 MR. ZUCKER: Renew the objection.

4 THE COURT: The substance of what was learned with  
5 respect to the person who is the subject of the question is not  
6 in the record. The objection is overruled.

7 BY MR. LEON:

8 Q. Now, you've mentioned several times this barbershop?

9 A. It's a house.

10 Q. It's a house. Just physically, what neighborhood was this  
11 house in?

12 A. Congress Park, man.

13 Q. It was in Congress Park.

14 Now, you indicated that you sold -- well, that you gave  
15 Antwuan Ball an Uzi. Correct?

16 A. That's what I said.

17 Q. Did you sell it to him or just give it to him?

18 A. I gave it to him.

19 Q. Why did you just give Antwuan Ball an Uzi?

20 A. He said he was having some problems and he needed a gun.

21 Q. What problems did Antwuan Ball tell you he was having?

22 A. He said he heard somebody was conspiring to do something to  
23 him.

24 Q. What specifically did Antwuan Ball tell you?

25 A. Somebody was trying to kill him.

1 MR. TABACKMAN: Your Honor, may I approach the bench?

2 THE COURT: No.

3 BY MR. LEON:

4 Q. Mr. Marsh, I think right before we just took this quick  
5 break, the question I asked you was what did -- how did -- what  
6 did Antwuan Ball tell you he did in resolving this problem about  
7 Wop and Munya?

8 A. He says he confronted them.

9 Q. Okay. When Antwuan Ball -- we're going to get to what he  
10 told you in just a moment. But when Antwuan Ball told this to  
11 you, how did he seem? Was he calm or not?

12 A. He was shoooken up a little bit, it looked like.

13 Q. When you say "it looked like," were you having this  
14 conversation in person?

15 A. Yeah.

16 Q. What did Antwuan Ball tell you about the details of exactly  
17 what he did when he dealt with it?

18 A. He said he went in there and confronted Wop and Munya. They  
19 was in there playing a video game, and I think they had a pistol  
20 on the table. He took the pistol, smacked up Munya, Wop jumped  
21 out the window, and that's pretty much what he told me.

22 Q. Did Antwuan Ball tell you if other than Wop and Munya,  
23 anyone else was in the apartment?

24 A. Phil was in there. Phil.

25 Q. And at the time he told you this, did you know who Phil was?

1 A. I was familiar with him.

2 Q. Excuse me?

3 A. I was familiar with him.

4 Q. And how were you familiar with Phil?

5 A. From the neighborhood.

6 Q. Did Antwuan Ball tell you if he took anything as a result of  
7 this incident in the apartment?

8 A. Took what money he found in there. I believe there was some  
9 drugs in there.

10 Q. You said money and drugs. You indicated that there was a  
11 gun that he took off of a table?

12 A. Yeah.

13 Q. Did he indicate to you whose gun this was?

14 A. I can't recollect. But it was the gun on the table.

15 Q. Did he tell you what kind of gun it was?

16 A. May have been a Ruger, if my memory serves me well. Ruger.

17 Q. Did he tell you if he kept that gun or not?

18 A. He kept it.

19 Q. Now, did Antwuan Ball tell you what his intention was when  
20 he went to that apartment to confront Wop and Munya?

21 A. I believe Antwuan was going there to kill them that day.

22 Q. Did Antwuan Ball tell you if he did kill anyone in that  
23 apartment that day?

24 A. Yeah, he didn't kill nobody.

25 Q. Did Antwuan Ball tell you why he did not kill anyone in that

1 apartment that day?

2 A. If my memory serves well, I believe Antwuan just -- he just  
3 couldn't do it.

4 Q. Now, you told us that you gave Antwuan Ball an Uzi.

5 Correct?

6 A. Yes.

7 Q. Did you give Antwuan Ball that Uzi before or after this  
8 incident in the apartment where he smacked Munya with the  
9 pistol?

10 A. I believe it was before that.

11 Q. Did Antwuan Ball tell you if he brought that Uzi with him to  
12 confront them?

13 A. I don't recall.

14 Q. Now, you also told us a little while ago that you and  
15 Antwuan went on a trip to Dallas, Texas. Correct?

16 A. Yes.

17 Q. Was that trip to Dallas, Texas before or after this incident  
18 with Antwuan smacking Munya with the pistol in the apartment?

19 A. I think it was after that.

20 Q. And when you were with Antwuan during this trip, where did  
21 you stay, do you remember?

22 A. Yeah, we stayed in a Studio Plus. Like a motel, but we got  
23 a full kitchenette, so...

24 Q. And was the place called Studio Plus?

25 A. Yeah.

# **EXHIBIT J**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, : Docket No. CR 05-100  
: .  
Plaintiff : .  
v. : Washington, DC  
: .  
ANTWUAN BALL, : .  
DAVID WILSON, : .  
GREGORY BELL, : March 29, 2007  
DESMOND THURSTON, : .  
JOSEPH JONES, : .  
DOMINIC SAMUELS, : .  
Defendants : 1:00 p.m.  
: . . . . .

VOLUME 26 - AFTERNOON SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS,  
UNITED STATES DISTRICT JUDGE, and a jury

APPEARANCES:

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GLENN S. LEON, ESQUIRE  
GIL GUERRERO, ESQUIRE  
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## PROCEEDINGS

THE COURT: Counsel, just so you know, what I'm going to do for the afternoon is to take two shorter afternoon breaks instead of one regular 15-minute break. I'm not exactly sure what time I'm going to do those, but we'll take two 10-minute breaks.

MR. LEON: Before the jury is called in, Your Honor, I did want to make a short record, and then ask -- put something on the record.

First is, after the jury was excused for their lunch break but before the defendants and before Mr. Capies went back, Mr. Ball, Antwuan Ball, audibly said several things loud enough for not only all government counsel to hear, but also Mr. Capies. He reported that to government counsel in the presence of the Marshals. And I know that at the lunch break -- it's my understanding at the lunch break that at least one if not more than one of the Marshals spoke to Mr. Capies about it.

So I first want to put that on the record. My understanding, without knowing the specifics because I wasn't able and didn't talk to Mr. Capies directly, is that Mr. Capies perceived both the words spoken by Mr. Ball, as well as body language and eye contact, to be of a threatening nature. I want to put that on the record. We're very concerned about that.

Mr. Ball specifically in this indictment, in this case, is charged with witness tampering and threats against witnesses.

1 We have a man who's barely started his direct examination and is  
2 being threatened, in the government's opinion, by Mr. Ball.  
3 We're very concerned about it, first. We want to put that on  
4 the record first and foremost.

5 I would ask at this point -- I don't know more about  
6 it, so I can't make any more representations about the  
7 specifics, but I am not only concerned about it, but I think  
8 it's a fair area inquiry of Mr. Capies during his direct  
9 examination. I want to put that on the record and make that  
10 request of the Court.

11 But again, I'm in a position where I have certainly a  
12 good-faith basis to make this representation and to make this  
13 request. But, not having spoken to Mr. Capies, I don't know  
14 specifically, and I know that -- I believe that -- I don't know  
15 if one of these Marshals -- but my understanding is at least one  
16 Marshal did have some contact with Mr. Capies during the last  
17 two hours. So that's where I am right now.

18 THE COURT: All right. Just to supplement the record,  
19 when I got back to chambers a short while, maybe about an hour  
20 ago, I did learn about this reported incident and have been in  
21 touch with the Marshals, to report it to them and to ask them to  
22 follow their protocol for having a Marshal interview Mr. Capies  
23 with respect to that. And so I assume I will be getting a  
24 report about that at some point.

25 But let me invite Mr. Carney, if he wanted to put

1 anything on the record.

2 MR. CARNEY: Your Honor, if Mr. Capies was threatened,  
3 then I was threatened. He was visibly upset with the testimony,  
4 but he was directing his conversation at me. I was standing in  
5 front of Mr. Ball --

6 THE COURT: I'm sorry. Could you repeat that? You  
7 said "he," but I don't know who you were talking about.

8 MR. CARNEY: My client, Mr. Antwuan Ball, was visibly  
9 upset, but was not directing any conversation at anybody other  
10 than me. I was standing in front of him, he was stating, "You  
11 need to check this out, you need to check that out." I'm sure  
12 that most of it must have been picked up at -- the tape recorder  
13 was on, but I guess it's not tape-recorded proceedings, it's  
14 just the transcript.

15 But he was visibly upset, he was directing his  
16 conversation to me, and Mr. Capies has certainly been warned by  
17 the U.S. Attorney's Office on two things: When you come into  
18 lockup, make sure you pick up anything on being threatened; and  
19 when you're on the witness stand, if anything happens, report it  
20 so you can make a record and make a possibility that you're  
21 being threatened.

22 There was no threat to Mr. Capies. The conversation  
23 was simply directed at me as to what he expected me to do. And  
24 maybe he said it too loud, but it was not directed at  
25 Mr. Capies. And that's my belief on this.

1                   THE COURT: All right. Well, this is not a time or  
2 place to make any factual findings necessarily about what did or  
3 did not transpire or was said. I am certain that the lawyers  
4 for all the defendants have spoken with their clients about this  
5 kind of an event, and the consequences of it. I'll ask the  
6 lawyers to reinforce that with all of their clients. But at  
7 this point we've -- I've dispatched the Marshals to conduct an  
8 interview, and once we're able to get whatever investigation  
9 they think is appropriate completed, we'll have some basis for  
10 knowing what if anything needs to be done on this separate issue  
11 about whether a witness has indeed been threatened.

12                  With respect to the issue about fair inquiry, if the  
13 witness does perceive that, that happened, I think it would  
14 be area fair to inquire about. But it would also be fair for  
15 cross-examination in connection with it.

16                  MR. MARTIN: Your Honor, I just wanted to --

17                  THE COURT: Let me invite Mr. Carney to come back up.

18                  MR. CARNEY: The problem with that, Your Honor, is then  
19 I become a witness to that conversation, as does Ms. Wicks, who  
20 was standing next to me. And I think you're going to get into a  
21 mini-hearing by going forward with that.

22                  I think that this is something that's beyond the  
23 typical cases, where somebody is actually walking by and they  
24 stand up and say something to them. He's over here, he hasn't  
25 moved, and I'm in his face. That's the way he looked at it, you

1 know, talking to him. I can't imagine how Mr. Capies, based on  
2 the circumstances -- we would have to have a hearing on it, and  
3 I'd ask for a full-scale hearing, and we'll go through with all  
4 the Marshals and everyone as to whether the government can go  
5 into that on their direct examination. Because it just isn't  
6 right.

7 THE COURT: Well, what is wrong, if a witness is  
8 legitimately threatened while the witness is on the stand by a  
9 defendant who is in the courtroom, with having the government  
10 inquire about that?

11 MR. CARNEY: There's nothing wrong with that.

12 THE COURT: Why is that not right, and why would it not  
13 be relevant?

14 MR. CARNEY: It is, and I would ask that we have a  
15 hearing now and get this off to a good start, and get this  
16 straight.

17 But as I've represented to the Court, it's a different  
18 thing if he would be pointing at him or looking at him or saying  
19 something out to him. He was talking to me, he wasn't talking  
20 to anyone else, and he was upset. But whether he could hear it  
21 or not, that's another thing. And what he heard.

22 THE COURT: I'm not sure what you're either asking for  
23 or opposing.

24 MR. CARNEY: I'm asking for a hearing. If this is  
25 going to be allowed to be inquired to, I want a full-scale

1 hearing. I want to put Ms. Wicks on the stand, I want to put --

2 MR. MARTIN: I heard it.

3 MR. CARNEY: -- these other individual counsel that  
4 heard it, I want to call each of the Marshals, and we'll make a  
5 hearing of it and make a record. Because I think this is so  
6 serious, to have a witness on the stand saying, "I was  
7 threatened actually in the courtroom." I think that's really  
8 beyond the purview of a fair trial. It just isn't right.

9 THE COURT: Well, are you saying it isn't right until a  
10 hearing is held? Or are you saying it wouldn't be right in any  
11 circumstances?

12 MR. CARNEY: I'm saying it's right once we have a  
13 hearing and there's findings of fact.

14 THE COURT: Well, we're not going to have a hearing  
15 right now. We have just begun the process of having the  
16 investigation taking place. And I'm not promising there is  
17 going to be a hearing.

18 But if indeed the witness perceived himself as having  
19 been threatened by a defendant, I don't know what could be more  
20 probative of consciousness of guilt than something like that,  
21 and it certainly would not be something irrelevant to inquire  
22 into.

23 MR. MARTIN: Your Honor, with all due respect, I need  
24 to corroborate what Mr. Carney said --

25 THE COURT: Okay, I'm not holding a fact-finding

1 hearing now, so don't take my time up with respect to any  
2 allegations about what did or didn't happen.

3 MR. MARTIN: I just want the record to reflect that I  
4 saw what happened, and at no time did Mr. Ball --

5 THE COURT: Okay. Mr. Martin, I am asking you to not  
6 to proceed, because this is not a fact-finding hearing right now  
7 and I'm not going to take any more proffers about facts.

8 MR. ZUCKER: I'd like to make a proffer.

9 THE COURT: Go ahead.

10 MR. ZUCKER: I'm going to make a motion to sever if  
11 that inquiry is allowed, because it will have prejudicial impact  
12 on my client.

13 MR. MARTIN: Mr. Jones joins in that.

14 MR. ZUCKER: And I'm going to ask the Court to defer  
15 until -- at least defer allowing the government to continue, or  
16 to pursue that line of inquiry, at least until your Marshal  
17 gives his report.

18 THE COURT: Oh, I didn't say I'm going to let them  
19 inquire into it right now. I was just commenting that that, in  
20 theory, is a fair line of inquiry. There is no need today to  
21 have that question put to the witness. I understand the witness  
22 has got a lot more to do and to say, and I take it that during  
23 that time we'll be able to make, I hope, some progress in being  
24 able to get further independent investigation of what did or did  
25 not occur.

1                   So my judgment at the moment is, it is likely a fair  
2 area of inquiry, but from my understanding that this witness'  
3 direct testimony is far from completed, I will direct the  
4 government not to make that inquiry right now. We are waiting  
5 to find out a little bit more about where we are so that we can  
6 make some judgment about whether a hearing is appropriate,  
7 whether we have any other issues, and so on.

8                   MR. BEANE: I just have, I guess, a technical issue  
9 with regards to this. Aside from joining in the motion to  
10 sever, my --

11                  THE COURT: Let me just rule on the motion to sever.  
12 The motion is denied without prejudice.

13                  MR. BEANE: Okay, I got that. Here's my problem --

14                  THE COURT: Is this something that can wait until the  
15 break? Because we've got a jury waiting.

16                  MR. BEANE: Well, here's my problem --

17                  THE COURT: Is it something that can wait until the  
18 break?

19                  MR. BEANE: I don't think so, given that he's still on  
20 the stand. My problem is this: If the rule on witnesses is in  
21 place and the Marshals heard it --

22                  THE COURT: It is in place.

23                  MR. BEANE: Okay, then I think we need to identify  
24 which Marshals heard it so that we can excuse them from the  
25 courtroom if we need to call them in our case to impeach

# EXHIBIT K

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :  
:  
Plaintiff, : Docket No. CR 05-100  
:  
v. :  
:  
ANTWUAN BALL, DAVID WILSON, : Washington, DC  
GREGORY BELL, DESMOND :  
THURSTON, JOSEPH JONES, and : April 2, 2007  
DOMINIC SAMUELS, : 1:55 p.m.  
:  
Defendants. :  
:  
:

VOLUME 27 - AFTERNOON SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS  
UNITED STATES DISTRICT COURT JUDGE, and a JURY

APPEARANCES:

For the United States: UNITED STATES ATTORNEY'S OFFICE  
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States Attorney  
Ann H. Petalas, Assistant United  
States Attorney,  
Gilberto Guerrero, Assistant  
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For Defendant  
Antwuan Ball: CARNEY & CARNEY  
John James Carney, Esq.  
South Building  
601 Pennsylvania Avenue, N.W.  
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202.434.8234

1 A. Ten dime sales?

2 Q. Yeah.

3 A. It break down four ways.

4 Q. And first of all, did you personally participate in this  
5 unos, dose, tres system?

6 A. Yes, sir.

7 Q. How many times would you say you personally participated  
8 in this system?

9 A. So many times I can't recount.

10 Q. Who did you share sales with?

11 A. Wop, Dazz, Phil, Drano, Tweety, Ju-Ju, Jo-Jo, LT  
12 Terrence, Cat Eye Tony.

13 Q. I think you indicated that this system was done for  
14 safety reasons?

15 MR. ZUCKER: Objection.

16 THE WITNESS: Yes, sir.

17 BY MR. LEON:

18 Q. Explain what you mean by that.

19 A. Like I was saying earlier, so you won't go out. Meatball  
20 and Head got shot in drive-byes, so we wouldn't go out in the  
21 front line to try to make a purchase and a car come by and we  
22 get shot up; whereas in the alley in the cut we could see what's  
23 going on down on the street.

24 Q. Through the uno, dos system, how would people actually go  
25 out to make the sale itself?

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :  
:  
Plaintiff, : Docket No. CR 05-100  
:  
v. :  
:  
ANTWUAN BALL, DAVID WILSON, : Washington, DC  
GREGORY BELL, DESMOND :  
THURSTON, JOSEPH JONES, and : April 18, 2007  
DOMINIC SAMUELS, : 9:16 a.m.  
:  
Defendants. :  
:  
:

VOLUME 36 - MORNING SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS  
UNITED STATES DISTRICT COURT JUDGE, and a JURY

APPEARANCES:

For the United States: UNITED STATES ATTORNEY'S OFFICE  
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States Attorney  
Ann H. Petalas, Assistant United  
States Attorney,  
Gilberto Guerrero, Assistant  
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For Defendant  
Antwuan Ball: CARNEY & CARNEY  
John James Carney, Esq.  
South Building  
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Washington, DC 20004  
202.434.8234

1 A. Because the game was -- the game was already established.  
2 Everybody respected the game.

3 Q. And did you ever play the game doors with Don?

4 A. Yes.

5 Q. How about DC?

6 A. Yes.

7 Q. How about Munya?

8 A. Yes.

9 Q. How about -- well, who else would you play the game doors  
10 with?

11 A. Dion, Jo-Jo, JT, Santu, Dazz, Phil.

12 Q. You mentioned Dazz a couple times. Let me interrupt you.

13 MR. ZUCKER: Objection.

14 BY MS. PETALAS:

15 Q. You mentioned Dazz a couple --

16 MR. ZUCKER: Misstates the evidence. This is the first  
17 mention of Dazz.

18 MS. PETALAS: Actually, I don't believe that's true, but  
19 I'll move on, Your Honor.

20 BY MS. PETALAS:

21 Q. You just mentioned Dazz. Do you see Dazz in the  
22 courtroom today?

23 A. Yes.

24 Q. Would you please identify him by where he's sitting.

25 A. To the left of me, with a yellow shirt on.

1 MS. PETALAS: Your Honor, may the record reflect an  
2 in-court identification of Desmond Thurston? I think he's the  
3 only one wearing --

4 MR. ZUCKER: I don't see any yellow shirt. On the other  
5 hand, I think --

6 Mr. Thurston, would you stand up, please.

7 THE WITNESS: Yeah, that's Dazz right there.

8 MR. ZUCKER: Thank you. Stipulate to the identification.

9 BY MS. PETALAS:

10 Q. You mentioned Dazz. How often -- you said you played  
11 doors with Dazz?

12 A. Yes.

13 Q. And where would you play doors with Dazz?

14 A. In the circle, in the Lincoln, in the alley.

15 Q. How about Wop? Did you ever play doors with Wop?

16 A. No.

17 Q. Would you ever be playing the game doors when Wop was  
18 around?

19 A. Yes.

20 Q. And why was it that you didn't play doors with Wop?

21 MS. WICKS: Objection.

22 THE COURT: Basis?

23 MS. WICKS: Foundation.

24 THE COURT: Overruled.

25 BY MS. PETALAS:

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, : Docket No. CR 05-100

**Plaintiff** ...

... Washington, DC

ANTWUAN BALL, :  
DAVID WILSON, :  
GREGORY BELL, : May 21, 2007  
DESMOND THURSTON, :  
JOSEPH JONES, :  
DOMINIC SAMUELS, :

Defendants : 2:00 p.m.

VOLUME 53 - AFTERNOON SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS,  
UNITED STATES DISTRICT JUDGE, and a jury

## APPEARANCES:

For the United States: ANN H. PETALAS, ESQUIRE  
GLENN S. LEON, ESQUIRE  
GIL GUERRERO, ESQUIRE  
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Washington, D.C. 20530

For the Defendant  
Antwuan Ball:  
  
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CARNEY & CARNEY  
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(202) 434-8234

STEVEN CARL TABACKMAN, ESQUIRE  
TIGHE, PATTON, ARMSTRONG,  
TEASDALE, PLLC  
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Washington, DC 20006  
(202) 454-2811

1 MR. BALAREZO: Your Honor, objection. It's a  
2 narrative, it's nonresponsive.

3 THE COURT: Sustained.

4 BY MR. GUERRERO:

5 Q. I want to now ask you a little bit more focused on the  
6 circle, and then we'll go to other areas.

7 During the time period that you were selling crack  
8 cocaine in the circle, did you become aware of what uno/dos, or  
9 doors, is?

10 A. Yes, sir.

11 Q. And how did you become aware of that?

12 A. I mean, it was just something that was always played since  
13 when I way started -- from when I first started hustling,  
14 uno/dos. It was like the way you got your sales. It was so  
15 many people hustling, you just couldn't say, "oh, it's my turn,  
16 my turn."

17 So as soon as the sale come up on the scene, it's uno.  
18 Whoever call uno, that's the first person get the sale. Dos,  
19 you break the sale down with dos.

20 Q. Who did you see playing this game in the circle?

21 A. Oh, me, Kairi, Don, Wop, Dazz, Phil, Terrence, Jazz, Santu,  
22 Kay-Bay, everybody.

23 Q. Did you ever see Antwuan playing the game?

24 A. No.

25 Q. Did you ever play with Wop yourself?

# EXHIBIT L

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :  
:  
Plaintiff, : Docket No. CR 05-100  
:  
v. :  
:  
ANTWUAN BALL, DAVID WILSON, : Washington, DC  
GREGORY BELL, DESMOND :  
THURSTON, JOSEPH JONES, and : April 2, 2007  
DOMINIC SAMUELS, : 1:55 p.m.  
:  
Defendants. :  
:  
:

VOLUME 27 - AFTERNOON SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS  
UNITED STATES DISTRICT COURT JUDGE, and a JURY

APPEARANCES:

For the United States: UNITED STATES ATTORNEY'S OFFICE  
Glenn S. Leon, Assistant United  
States Attorney  
Ann H. Petalas, Assistant United  
States Attorney,  
Gilberto Guerrero, Assistant  
United States Attorney  
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Washington, DC 20001  
202.305.0174

For Defendant  
Antwuan Ball: CARNEY & CARNEY  
John James Carney, Esq.  
South Building  
601 Pennsylvania Avenue, N.W.  
Washington, DC 20004  
202.434.8234

1 A. It's like '97, early part.

2 Q. Early part of '97?

3 A. Yes, sir.

4 Q. Did -- during these conversations in the early part of  
5 '97 that you're having with Wop and Dazz, you said, I believe,  
6 that Wop -- excuse me, that Dazz did not disagree with the talk  
7 of retaliation. Did Dazz ever say anything himself about  
8 retaliation?

9 A. Yes, sir.

10 Q. Tell us what Dazz said about retaliation.

11 A. That they went down there and got in a shootout with some  
12 guys with 10th Place.

13 Q. Who told you this?

14 A. Dazz.

15 Q. When did Dazz tell you this?

16 A. I don't got no date on it, sir, but I remember him  
17 telling me in the early part of '97.

18 Q. Early part of?

19 A. '97.

20 MR. ZUCKER: Could I ask the witness to define what is the  
21 early part of '97? Is there any way to focus it?

22 THE COURT: No.

23 BY MR. LEON:

24 Q. What is the early part of '97 to you, Mr. Capies?

25 A. January, February.

1 Q. Okay. Was this a specific conversation you can remember?

2 A. Yes.

3 Q. Tell us the specific conversation you remember having in  
4 January, February, where Dazz told you about retaliating.

5 A. He told me that him, Antwuan, LT, and Wop went down  
6 10th Place to try to creep down on them guys, and somebody  
7 opened fire on them, which they believe was Steve and Patrick,  
8 and they stopped the car and jumped out and opened fire back.

9 Q. Okay. You've said a few things there. Let's just follow  
10 up. First of all, Dazz told you about this?

11 A. Yes, sir.

12 Q. And he told you that Dazz was there and who else?

13 A. LT, Twan, and Wop.

14 Q. So four people in total?

15 A. Yes, sir.

16 Q. Okay. And where did this shooting happen?

17 A. On 10th Place.

18 Q. Did he tell you where on 10th Place?

19 A. No. He just said 10th Place.

20 Q. And did Dazz tell you who's idea it was to drive to  
21 10th Place to do this shooting?

22 A. I don't remember.

23 Q. Okay. And did he tell you how they got there?

24 A. Yes. By car.

25 Q. Did he tell you whose car?

1 A. No, I don't remember, sir.

2 Q. Okay. And did he tell you who from Congress Park, who  
3 from the group Dazz was with, actually fired weapons?

4 A. All of them that was in the car that I named.

5 Q. All four?

6 A. Yes.

7 Q. And I believe you said that they were firing at Steve and  
8 Patrick?

9 A. Yes.

10 Q. Anybody else?

11 A. A dude named Redhead.

12 Q. Redhead. And did Dazz indicate to you whether or not  
13 either Redhead or Steve or Patrick, any of those three fired  
14 back?

15 A. Yes.

16 Q. Did they?

17 A. Yes.

18 Q. Who?

19 A. Steve and Patrick.

20 Q. And?

21 A. And Redhead.

22 Q. So all three did fire back?

23 A. Yes.

24 Q. Did Dazz indicate to you if anyone, anyone from  
25 Congress Park or anyone from 10th Place, was actually hit with

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :  
:  
Plaintiff, : Docket No. CR 05-100  
:  
v. :  
:  
ANTWUAN BALL, DAVID WILSON, : Washington, DC  
GREGORY BELL, DESMOND :  
THURSTON, JOSEPH JONES, and : May 7, 2007  
DOMINIC SAMUELS, : 9:20 a.m.  
:  
Defendants. :  
:  
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VOLUME 46 - MORNING SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS  
UNITED STATES DISTRICT COURT JUDGE, and a JURY

APPEARANCES:

For the United States: UNITED STATES ATTORNEY'S OFFICE  
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States Attorney  
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States Attorney,  
Gilberto Guerrero, Assistant  
United States Attorney  
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202.305.0174

For Defendant  
Antwuan Ball: CARNEY & CARNEY  
John James Carney, Esq.  
South Building  
601 Pennsylvania Avenue, N.W.  
Washington, DC 20004  
202.434.8234

1 on Savannah, then, you know, you might have some here, some  
2 there, but everybody on the majority of the Savannah side. Then  
3 towards the end of the 10th Place beef, everybody was more on  
4 the like -- more like on the Lincoln and The Circle, you know  
5 what I'm saying? You still had Boy-Boy stayed in the alley,  
6 rolled around, did his thing, you know, but us, we was in front  
7 of the Lincoln or in The Circle, like we always stood in front  
8 of the Lincoln, but we was there. If you wanted some coke, we  
9 were either in front of the Lincoln or in The Circle. Nobody  
10 was hanging around the Savannah side no more.

11 Q. And you mentioned before, you said everybody used to  
12 float through the neighborhood. Did people sell in The Circle  
13 prior to this?

14 A. Yeah.

15 Q. And how about the Lincoln?

16 A. Yeah. Yes.

17 Q. Prior to this, I meant prior to this time you're talking  
18 about, where you're now posting up in The Circle.

19 A. Yes.

20 Q. You used to, a lot of the time -- when you were talking  
21 earlier, you talked about -- you said towards the end of 10th  
22 Place, we were in front of the Lincoln and The Circle. Who are  
23 you talking about when you say "we"?

24 A. Uhm, all the rest of the people in Congress Park, like  
25 Wop, Drano, Don, DC, me, JT. Jo-Jo may post up for a minute,

1 but he would go back around the alley. Dazz, Phil, all of us,  
2 we was just right there. We would circle the Lincoln.

3 Q. Okay. And you said -- you talked about Jo-Jo. You said  
4 he used to post up, but then he'd go back around the alley.  
5 Where are you talking about there?

6 A. It's right there. (Indicating.) They would be standing  
7 right there.

8 MR. ZUCKER: I'm sorry, we couldn't hear.

9 BY MS. PETALAS:

10 Q. You need to talk in the microphone.

11 A. They would be standing like -- they be posted up right  
12 there, like they be sitting right there, drinking and just  
13 chilling.

14 Q. And you said -- for the record, you put a dot kind of --

15 A. It's the alley.

16 Q. The alley that's below Savannah Street, in-between  
17 Savannah Street and Congress Street; is that correct?

18 A. Yes.

19 Q. And the dot you put was kind of at the end of that alley,  
20 just kind of down below the two Ns in Savannah Street; is that  
21 correct?

22 A. Yes, like -- I'll see if I can press it again.  
23 (Indicating). Right there.

24 Q. And earlier you had mentioned -- you talked about getting  
25 drugs from Jo-Jo. Roughly, what time was it that you got drugs

# EXHIBIT M

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :  
:  
Plaintiff, : Docket No. CR 05-100  
:  
v. :  
:  
ANTWUAN BALL, DAVID WILSON, : Washington, DC  
GREGORY BELL, DESMOND :  
THURSTON, JOSEPH JONES, and : April 4, 2007  
DOMINIC SAMUELS, : 9:36 a.m.  
:  
Defendants. :  
:  
:

VOLUME 29 - MORNING SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS  
UNITED STATES DISTRICT COURT JUDGE, and a JURY

APPEARANCES:

For the United States: UNITED STATES ATTORNEY'S OFFICE  
Glenn S. Leon, Assistant United  
States Attorney  
Ann H. Petalas, Assistant United  
States Attorney,  
Gilberto Guerrerc, Assistant  
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For Defendant  
Antwuan Ball: CARNEY & CARNEY  
John James Carney, Esq.  
South Building  
601 Pennsylvania Avenue, N.W.  
Washington, DC 20004  
202.434.8234

1 Q. What do you mean, "before"? When?

2 A. I can't remember the date, but I remember them taking  
3 drugs off of me.

4 Q. And when you -- you, Bobby Capies -- would hide drugs in  
5 your shorts -- I'm going to ask you to be as specific as  
6 possible -- where would you actually hide them?

7 A. Under my nuts, part of my sack.

8 Q. Would you -- you, Bobby Capies -- ever hide drugs in your  
9 rectum?

10 A. Before, I have.

11 Q. You have?

12 A. Yes, sir.

13 Q. When you say "before," what do you mean by that?

14 A. When they start really getting frisky, like going hard,  
15 going down in and checking and stuff under your sacks.

16 Q. Did you stop doing that or -- you said before, was there  
17 a time you stopped hiding drugs there?

18 A. No, not really, but you know, if you see them. We always  
19 be where you can see them or somebody would tell us they coming  
20 and that's when we do it.

21 Q. And when you say "someone would tell us they're coming,"  
22 who do you mean by "us"?

23 A. The guys that I was hanging with in '96 all the way up to  
24 2001 area.

25 Q. You're talking about 1996 to 2001?

# EXHIBIT N

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :  
:  
Plaintiff, : Docket No. CR 05-100  
:  
v. :  
:  
ANTWUAN BALL, DAVID WILSON, : Washington, DC  
GREGORY BELL, DESMOND :  
THURSTON, JOSEPH JONES, and : April 3, 2007  
DOMINIC SAMUELS, : 9:30 a.m.  
:  
Defendants. :  
:  
:

VOLUME 28 - MORNING SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS  
UNITED STATES DISTRICT COURT JUDGE, and a JURY

APPEARANCES:

For the United States: UNITED STATES ATTORNEY'S OFFICE  
Glenn S. Leon, Assistant United  
States Attorney  
Ann H. Petalas, Assistant United  
States Attorney,  
Gilberto Guerrerc, Assistant  
United States Attorney  
555 4th Street  
Washington, DC 20001  
202.305.0174

For Defendant  
Antwuan Ball: CARNEY & CARNEY  
John James Carney, Esq.  
South Building  
601 Pennsylvania Avenue, N.W.  
Washington, DC 20004  
202.434.8234

1 A. I kind of had a little fear of him, because he -- I came  
2 up under him, like before he did it, but after it, not no more.

3 Q. Well, you said you're not afraid of him, did you ever  
4 kill him?

5 A. No.

6 Q. Why not?

7 A. Because once I seen Wop tried to have a little nod, like  
8 he wasn't trying to do nothing about it, it would be me against  
9 the park. I would have got killed.

10 Q. When you say you "against the park," who do you mean by  
11 that?

12 A. Everybody that I ever named in Congress Park.

13 Q. Everyone you've named previously?

14 A. Yes, sir.

15 Q. Yes or no, does that include Jo-Jo?

16 MR. MARTIN: Objection.

17 MR. TABACKMAN: Objection.

18 THE COURT: Yes, vague.

19 MR. TABACKMAN: He did not ask --

20 THE COURT: Sustained.

21 MR. LEON: I'll withdraw it.

22 BY MR. LEON:

23 Q. Did you ever -- you told us about two conversations with  
24 Antwuan.

25 Have you ever talked to Antwuan, just you and Antwuan,

# EXHIBIT O

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :  
:  
Plaintiff, : Docket No. CR 05-100  
:  
v. :  
:  
ANTWUAN BALL, DAVID WILSON, : Washington, DC  
GREGORY BELL, DESMOND :  
THURSTON, JOSEPH JONES, and : April 24, 2007  
DOMINIC SAMUELS, : 9:25 a.m.  
:  
Defendants. :  
:  
:

VOLUME 39 - MORNING SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS  
UNITED STATES DISTRICT COURT JUDGE, and a JURY

APPEARANCES:

For the United States: UNITED STATES ATTORNEY'S OFFICE  
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States Attorney  
Ann H. Petalas, Assistant United  
States Attorney,  
Gilberto Guerrero, Assistant  
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For Defendant  
Antwuan Ball: CARNEY & CARNEY  
John James Carney, Esq.  
South Building  
601 Pennsylvania Avenue, N.W.  
Washington, DC 20004  
202.434.8234

1 A. Correct.

2 Q. At Kiki's, would that be in powder form or crack form?

3 A. Crack cocaine.

4 Q. All right. In 1999, are you the same Cedric Conner who

5 was convicted of solicitation of a prostitute down in Fairfax,

6 Virginia?

7 A. Yes.

8 Q. And in '99 and 2000, did you continue to go to L.A. and

9 get more crack cocaine or powder cocaine?

10 A. Yes.

11 Q. Back in -- before we get into how many times you went, in

12 '99 or 2000, was there an incident that happened down in the

13 circle area between you and a person named DC?

14 A. Yes.

15 Q. When do you think that occurred?

16 A. Somewhere near September, before I went to Cancun, so it

17 was after my first trip to L.A.

18 Q. And DC we saw in one of the pictures yesterday, one of

19 those photos?

20 A. That's correct.

21 Q. And who was DC, again, to you?

22 A. Just somebody that -- partially bought drugs from me at

23 times.

24 Q. And where did this incident take place with you and DC?

25 A. Right on 13th Place near where Kiki's house was.

1 Q. Close to The Circle?

2 A. Yes.

3 Q. And what were you doing out there on that day?

4 A. That particular day, I was outside going hand-to-hand,  
5 which I called hand-to-hand, selling drugs, small quantities.

6 Q. What kind of quantities were you selling?

7 A. Dimes and twenties.

8 Q. And why were you out there doing hand-to-hand if you had  
9 been bringing in larger amounts of crack cocaine?

10 A. To make extra money to take to Cancun.

11 Q. Who were you going to go to Cancun with?

12 A. Jimmy Wingate, a friend of mine. Scooter.

13 Q. So tell us what happened when you were out there?

14 A. Incident occurred. I was out there, out there probably a  
15 good 30 minutes, and I was getting a lot of sales and --

16 Q. Let me stop you right there. When you're out there for  
17 30 minutes getting a lot of sales, did you see anyone else out  
18 there doing the same?

19 A. Yes.

20 Q. Who did you see out there doing the same?

21 A. The only one I recall that was out there at that time --  
22 a few other people. I don't recall everybody, but the main two  
23 that I recall was Dazz and DC.

24 Q. Dazz and DC?

25 A. Correct.

1 A. Correct.

2 Q. There's an alley there in front of that building?

3 A. Yes.

4 Q. Is that the alley that you're referring to?

5 A. Yes.

6 Q. And what did you see DC doing in that alley?

7 A. They were just over there, just a group of guys. Like I  
8 say, I don't remember everyone that was over there, but two that  
9 I do recall that was over there.

10 Q. And what do you particularly recall DC doing?

11 A. Just being outside at that time.

12 Q. And you said you were doing hand-to-hands?

13 A. That's correct.

14 Q. Did you see DC doing hand-to-hands?

15 A. No, I didn't. I wasn't paying attention, but I mean -- I  
16 was paying attention, but I wasn't focussed on what they were  
17 doing. I was just on my side of the street. They were on a  
18 different side of the street.

19 Q. And where was the side of the street that you were? Can  
20 you point for us? Or would it be right across the street?

21 A. Right near the building that I pointed to earlier.

22 Q. All right. So would that be to the left of where it says  
23 13th Place, the number 13?

24 A. Correct.

25 Q. All right. Now, you said you also saw Dazz there, too,

1 in that alley?

2 A. That's correct.

3 Q. What did you see Dazz doing?

4 A. They were over there. They were just having a  
5 conversation, about what I do not know.

6 Q. And after the 30 minutes, you said you were making some  
7 sales. Sales of what?

8 A. Crack cocaine.

9 Q. And approximately how much money do you recall making?

10 A. I don't recall at that time.

11 Q. What happened after you made the sales?

12 A. I was getting a lot of sales. A lot of people were, you  
13 know, requesting my drugs at that time. A few minutes later, I  
14 was approached by DC.

15 Q. And DC said what to you?

16 A. He told me that I couldn't come around there and take all  
17 the money because I don't be out there with them, you know, when  
18 they beefing and stuff like that.

19 Q. And what -- did DC say anything with reference to that  
20 particular strip?

21 A. The only thing --

22 MS. WICKS: Objection --

23 MR. ZUCKER: Objection to form, leading.

24 THE COURT: Sustained.

25 BY MR. GUERRERO:

1 Q. What else, if anything, did he say?  
2 A. He told me they built that strip.  
3 Q. DC said they built that strip?  
4 A. That's correct.  
5 Q. What did you understand he meant when he said they built  
6 that strip?  
7 A. I guess him and --  
8 MR. ZUCKER: Objection, speculation.  
9 THE COURT: Overruled.  
10 BY MR. GUERRERO:  
11 Q. Go ahead. You may answer, sir.  
12 A. Okay. I guess he meant by that was that --  
13 THE COURT: Sustained.  
14 THE WITNESS: Okay.  
15 THE COURT: Hold on. You have to put the question.  
16 BY MR. GUERRERO:  
17 Q. What you understood. Don't guess for us. What did you  
18 understand DC meant when he said they built that strip?  
19 THE COURT: Well, sustained.  
20 BY MR. GUERRERO:  
21 Q. What did you respond to DC?  
22 A. I did not make a comment at that. A few minutes later --  
23 Q. Well, what had you just been doing before DC approached  
24 you?  
25 MR. ZUCKER: Objection, asked and answered.

1 THE COURT: Overruled.

2 BY MR. GUERRERO:

3 Q. What had you just been doing before DC approached you?

4 A. Distributing drugs.

5 Q. What kind of drugs?

6 A. Crack cocaine.

7 Q. Where?

8 A. Small quantities, right on 13th Place.

9 Q. And when DC approached you, he had that conversation.

10 What happened next?

11 A. He then returned to the side of the street that he was  
12 on.

13 Q. The same alley you pointed to us earlier?

14 A. That's correct.

15 Q. What did you see in that alley?

16 A. Small group of guy that was across the street from where  
17 I was.

18 Q. Who do you recall being in that alley at that time?

19 A. The two people I mainly recall was Dazz and DC.

20 Q. What happened next?

21 A. A few minutes later, maybe half -- not a few minutes, but  
22 20 to 25 minutes later, Mr. Ball pulled up.

23 Q. Antwuan Ball?

24 A. That's correct.

25 Q. During the 25-minute period that you wait until Antwuan

1 Ball shows up, what are you doing?  
2 A. Still distributing my drugs.  
3 Q. What kind of drugs?  
4 A. Crack cocaine.  
5 Q. Where?  
6 A. On 13th Place, in front of Kiki's building.  
7 Q. Were you making sales?  
8 A. Yes.  
9 Q. How much, do you recall?  
10 A. No, I don't.  
11 Q. Was it a lot or a little?  
12 A. It wasn't that much.  
13 Q. What kind of quantities were you selling?  
14 A. I was selling all dimes.  
15 Q. Now, after the 25 minutes passed by, you saw Antwuan?  
16 A. That's correct.  
17 Q. Where did you see Antwuan?  
18 A. When he pulled up, he pulled into the back of the alley  
19 across the street from where I was standing and he got out and  
20 he conversed with the gentlemen that were standing over there.  
21 Q. You saw Antwuan converse with who?  
22 A. DC, Dazz and the other group of members that were over  
23 there at that time.  
24 MR. ZUCKER: Objection.  
25 THE COURT: Basis?

1 MR. ZUCKER: I must have misunderstood. I think he said  
2 the "other members" or "men"?

3 THE COURT: "Group of men." Overruled.

4 MR. ZUCKER: All right.

5 BY MR. GUERRERO:

6 Q. Where did you see Antwuan talk to Dazz and DC and the  
7 other group of men?

8 A. Generally across the street, where they were standing.

9 Q. Was that in the same alley that you pointed to us  
10 earlier?

11 A. That's correct.

12 Q. Right to the right of the 13th Place building?

13 A. That's correct.

14 Q. How long did you see Antwuan talk to Dazz and DC?

15 A. I don't recall how long. I don't recall exactly how long  
16 it was.

17 Q. What did you continue to do while Antwuan was talking to  
18 Dazz and DC?

19 A. I stayed on my side of the street.

20 Q. Doing what?

21 A. Distributing my drugs, but I wasn't getting any sales at  
22 that time.

23 Q. Distributing what kind of drugs?

24 A. Crack cocaine.

25 Q. Were you working with anybody then?

1 A. No.

2 Q. What happened after you see Antwuan talk to Dazz and DC?

3 A. He then approached me and he and I had a conversation.

4 Q. Who approached you?

5 A. Mr. Ball.

6 Q. Antwuan Ball?

7 A. Yes.

8 Q. And where did Antwuan Ball and you have this  
9 conversation?

10 A. At the end of Sheila's mother because they have a fence  
11 like gated around that community. It was Sheila's mother -- my  
12 daughter's mother's building is in the middle of that complex  
13 and we were standing at the tip of the walkway.

14 Q. Point to us, please, on 100.1.

15 A. It's kind of hard to point to it because it's --

16 Q. If you just point directly to the general area, maybe  
17 that will work.

18 A. (Indicating.) That's as close as I can get it.

19 Q. Just for the record, you made several attempts to mark  
20 100.1, but they weren't successful?

21 A. That's correct.

22 Q. And now you've pointed to, on 100.1, again, to the left  
23 of 13th Place, it looks like a building that's right to the left  
24 of "P-L" of 13th Place?

25 A. Right.

1 Q. What else did Antwuan say?

2 A. That was mainly the basis of it and he left.

3 Q. And what happened to you? What did you do?

4 A. I then kind of saw that they went back to where he was  
5 and I took that as a warning and I left.

6 Q. Why'd you take that as a warning?

7 MR. ZUCKER: Objection.

8 MR. GUERRERO: Goes to state of mind, Judge.

9 THE COURT: Overruled.

10 THE WITNESS: I felt uncomfortable after that.

11 BY MR. GUERRERO:

12 Q. You felt uncomfortable why?

13 A. Best way to put that is that it could have got ugly.

14 Q. It could have got ugly?

15 A. If I would have continued to stay out there and do what I  
16 was doing.

17 Q. What does that mean, "It could have got ugly"?

18 A. I don't want to speculate.

19 THE COURT: Sustained.

20 BY MR. GUERRERO:

21 Q. When you say, "It could have got ugly," it could have got  
22 ugly between --

23 MR. ZUCKER: Objection.

24 THE COURT: Sustained.

25 BY MR. GUERRERO:

1 Capitol Street you had?

2 A. Yep. 4509 South Capitol Street, apartment -- I think  
3 it's 101 or 102.

4 Q. Can you just repeat the address. I'm sorry.

5 A. It's 4509 South Capitol Street, Southwest, apartment 101  
6 or 102. I'm not sure what it was. It was the first apartment  
7 on the right when you go in the building -- on the left when you  
8 go in the building.

9 Q. How long had you had that apartment?

10 A. That apartment was registered to me. At that time, my  
11 girlfriend at the time was living there, but I was staying with  
12 another female, Carolyn Edwards.

13 Q. And when you said you took your first shipment to that  
14 apartment, what did you do at that apartment with the shipment?

15 A. I cooked it up and started distributing it.

16 Q. Did you say -- what quantity did you get the first  
17 shipment?

18 A. A kilo. One kilo of cocaine.

19 Q. And you cooked it up to what?

20 A. I cooked it up an eighth at a time, one eighth at a time.  
21 And I also fronted some of it out.

22 Q. And where were you selling this crack cocaine?

23 A. 4th Street and Congress block -- Congress Street.

24 Q. On that occasion, do you recall if you sold any eighth of  
25 a key to anyone in particular?

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, : Docket No. CR 05-100  
: :  
Plaintiff : :  
v. : Washington, DC  
: :  
ANTWUAN BALL, : :  
DAVID WILSON, : :  
GREGORY BELL, : May 22, 2007  
DESMOND THURSTON, : :  
JOSEPH JONES, : :  
DOMINIC SAMUELS, : :  
: :  
Defendants : 1:50 p.m.  
\* \* \* \* \*

VOLUME 54 - AFTERNOON SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS,  
UNITED STATES DISTRICT JUDGE, and a jury

APPEARANCES:

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GLENN S. LEON, ESQUIRE  
GIL GUERRERO, ESQUIRE  
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1747 Pennsylvania Avenue, NW  
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Washington, DC 20006  
(202) 454-2811

1 THE COURT: I'll sustain it.

2 BY MR. BEANE:

3 Q. Okay. Now, you did not plead to the robberies. Right?

4 A. Right.

5 Q. Okay. Now, you know that committing robbery -- well, who  
6 did you rob? Other drug dealers?

7 A. Yes, sir.

8 Q. And you know that that's known as being really cruddy.

9 Right?

10 A. Being cruddy?

11 Q. Cruddy.

12 A. Okay.

13 Q. Correct?

14 A. Correct.

15 Q. And you and Baby Ki did a lot of cruddy stuff together.

16 Right?

17 A. True.

18 Q. And as you sit here -- well, let me ask you this: You were  
19 talking about a time when you and Baby Ki went to rob someone,  
20 and Baby Ki pulled a knife and the other person pulled a gun.

21 Right?

22 A. We didn't go to rob him. We didn't go to rob him.

23 Q. What did you go to do?

24 A. We was telling them that they had to leave. They was out  
25 there hustling in the neighborhood, and we was telling them they

1 had to leave.

2 Q. You were telling them to get off the out of your  
3 neighborhood?

4 A. Right.

5 Q. And Baby Ki was trying to enforce that with a knife. Right?

6 A. I don't know what he was trying to do, but he pulled out the  
7 knife.

8 Q. Okay. Did he say anything when he pulled out the knife?

9 A. He pulled out the knife and the dude pulled out the gun.

10 Q. And this is when you and Baby Ki are tight. Right?

11 A. Yeah.

12 Q. And Baby Ki takes off and leaves you there facing the gun by  
13 yourself.

14 A. Sure did.

15 Q. All right. Now, although your brother and Greg Bell were  
16 good friends, you don't like Greg, do you?

17 A. I wouldn't say that.

18 Q. But you got in a fight with him. Right?

19 A. So what?

20 Q. You fight people you like often?

21 A. I fight -- I got a best friend who I done fought twice.

22 Q. Okay.

23 A. And he's my best friend right now, to this day.

24 Q. Okay. That's fine.

25 Now, at some point your mother was being evicted from

# EXHIBIT P

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, : Docket No. CR 05-100  
: :  
Plaintiff : :  
v. : Washington, DC  
: :  
ANTWUAN BALL, : :  
DAVID WILSON, : :  
GREGORY BELL, : May 17, 2007  
DESMOND THURSTON, : :  
JOSEPH JONES, : :  
DOMINIC SAMUELS, : :  
: :  
Defendants : 1:15 p.m.  
. . . . . : . . . . .

VOLUME 52 - AFTERNOON SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS,  
UNITED STATES DISTRICT JUDGE, and a jury

APPEARANCES:

For the United States: ANN H. PETALAS, ESQUIRE  
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GIL GUERRERO, ESQUIRE  
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1 A. I can't remember how many, but a particular day he was  
2 saying to LT --

3 Q. I'll stop you there. I just want to establish a time frame.  
4 Do you remember a particular conversation that you had with  
5 Antwuan about a conspiracy case?

6 A. Yes.

7 Q. And was LT there?

8 A. Yes.

9 Q. Anyone else there other than you, LT, and Antwuan?

10 A. No.

11 Q. And to the best of your memory, where was this conversation?  
12 Where were you physically?

13 A. We was driving.

14 Q. In what vehicle?

15 A. His Expedition.

16 Q. Was this the same conversation when Antwuan said he was  
17 going to smash Travonne?

18 A. Yes.

19 Q. And so again, you were driving that vehicle?

20 A. Yes. And he basically said -- told LT to hurry up, he  
21 needed to hurry up and get out the halfway house so he could  
22 start getting rid of some of the guys that he thought was going  
23 to flip.

24 Q. Who said that?

25 A. Antwuan.

1 Q. Did Antwuan mention anyone in particular?

2 A. Naw, he basically thought that Jazz and Santuce and Dazz and  
3 them was going to be the first to flip.

4 Q. That's what Antwuan told you?

5 A. And Boy-Boy, yes.

6 Q. Now, who actually -- was the word "conspiracy" or  
7 "conspiracy case" used during this conversation?

8 A. Yes. He said a guy by the name of Munya was calling home,  
9 saying that the feds was on they way, they was getting ready to  
10 drop a conspiracy.

11 Q. Do you know who Munya is?

12 A. Yes.

13 Q. Who is Munya?

14 A. He's a guy that comes from around Congress Park.

15 Q. How do you know Munya?

16 A. Basically grew up with him too, around there.

17 Q. Did you speak to Munya or did Antwuan speak to Munya?

18 A. It was never said who spoke to him. It was like he was  
19 calling home saying it, to whoever, I don't know.

20 Q. But who said that Munya is calling home?

21 A. I don't know. Antwuan said that he was calling out there  
22 saying it, but he never said he had talked to him per se.

23 Q. I see. And let's focus on you. When is the last time you  
24 yourself have seen Munya?

25 A. About two years -- yeah, about two years ago.

1 Q. Where were you, where was he?

2 A. We was in county jail.

3 Q. County jail where?

4 A. Arlington.

5 Q. So two years ago would be about 2005 or so?

6 A. Right.

7 Q. How long were you and Munya together at Arlington?

8 A. He was on two different blocks. We was on two different  
9 blocks for a minute, so --

10 MR. BALAREZO: Objection, nonresponsive.

11 THE COURT: Sustained.

12 A. I don't know.

13 BY MR. LEON:

14 Q. Okay. How many times did you see, lay eyes on Munya when  
15 you were in Arlington?

16 A. It was a lot.

17 Q. Did you hang out with him?

18 A. No.

19 Q. Did you ever talk to him about a conspiracy case?

20 A. Yeah, he said it was a conspiracy case coming.

21 Q. And that was in 2005 or so?

22 A. Yes. But he never got into the specifics of the case.

23 Q. Why?

24 MR. BALAREZO: Objection.

25 MR. ZUCKER: Objection. Actually, withdrawn. I

1 withdraw mine. I don't know about Balarezo.

2 THE COURT: I didn't hear two. Were there two?

3 THE REPORTER: I didn't, either.

4 THE COURT: I didn't, either. Go ahead.

5 BY MR. LEON:

6 Q. Why didn't you get into specifics with him?

7 A. We wasn't that tight, you know. I knew what he was out  
8 there for, you know, and he knew what I was out there for. We  
9 wasn't that tight.

10 Q. Now, in 2005, when you were in Arlington, had you and I ever  
11 met before?

12 A. No.

13 Q. Had you talked -- well, withdrawn. Withdraw that.

14 What else, if anything, did Antwuan say, just about the  
15 conspiracy case, if anything?

16 A. That was it. That was it, that I can remember.

17 Q. What else, if anything, did LT say in response to Antwuan  
18 when Antwuan said words to the effect of, "You got to get out of  
19 that halfway house soon so we can do these things"?

20 A. He was like, "All right." He was like, "Okay," you know.

21 Q. Did you say anything?

22 A. Naw, I was just listening. I think it ain't really dawn on  
23 him that I was -- I think he was more so venting at the time. I  
24 don't think it dawned on him that I was in the truck at the  
25 time, you know.

# EXHIBIT Q

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :  
:  
Plaintiff, : Docket No. CR 05-100  
:  
v. :  
:  
ANTWUAN BALL, DAVID WILSON, : Washington, DC  
GREGORY BELL, DESMOND :  
THURSTON, JOSEPH JONES, and : May 22, 2007  
DOMINIC SAMUELS, : 9:17 a.m.  
:  
Defendants. :  
:  
:

VOLUME 54 - MORNING SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS  
UNITED STATES DISTRICT COURT JUDGE, and a JURY

APPEARANCES:

For the United States: UNITED STATES ATTORNEY'S OFFICE  
Glenn S. Leon, Assistant United  
States Attorney  
Ann H. Petalas, Assistant United  
States Attorney,  
Gilberto Guerrero, Assistant  
United States Attorney  
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202.305.0174

For Defendant  
Antwuan Ball: CARNEY & CARNEY  
John James Carney, Esq.  
South Building  
601 Pennsylvania Avenue, N.W.  
Washington, DC 20004  
202.434.8234

1 Q. Did he take any crack cocaine from you?

2 A. He asked me for my coke, but I told him I ain't have no  
3 more.

4 Q. On any one of these occasions, was Baby Kairi around?

5 A. No, sir.

6 Q. Do you recall an incident that happened in The Circle  
7 where Phil robbed you?

8 A. Yes, sir.

9 Q. And who was out there that day?

10 A. It was a couple of people out there, but I can't remember  
11 name for name who was out there, but I know Antwuan eventually  
12 walked up on the scene.

13 Q. Well, tell us what happened before you were robbed. What  
14 were you doing?

15 A. I was making a sale.

16 Q. Who was out there that day making sales in addition to  
17 you?

18 A. Phil, Jazz -- it was Phil, Jazz, me, Little Greg, Dre.  
19 That night it wasn't too many people out there. There wasn't a  
20 whole lot of people out there. I think that was one of the  
21 nights when people went out to the clubs, the go-go's, whatever.  
22 There wasn't a lot of people out there that night.

23 Q. And did you say Twan was out there?

24 A. He walked up. I don't know where he came from, but he  
25 wasn't out there while we was out there, but he came up on the

1 scene.

2 Q. What happened with respect to the robbery?

3 A. Well, I was making a sale and Phil was riding down the  
4 street and I was getting out the car. It was a car had pulled  
5 up. As a matter of fact, I think it was the lady that used to  
6 come in the cab.

7 Q. Where exactly were you? Why don't you clear the screen  
8 for us and then point to where you think you were.

9 A. I was like up in here somewhere (indicating), in The  
10 Circle -- in the street, because I was in the street because I  
11 was getting out of the car.

12 Q. For the record, you marked 100.1, the exhibit, a line  
13 right below 13th Place, right in The Circle?

14 A. In The Circle. I was trying to mark in the street, but  
15 it was in The Circle.

16 Q. All right. So tell us again, what was happening?

17 A. Well, I'm getting out the car, and as I'm getting out the  
18 car, Phil riding down the street hollering, "Doors, doors,  
19 doors." And I'm like, "Doors? The sale is over. How you going  
20 to get doors on the sale and the sale is over?"

21 Q. Had you already made a sale?

22 A. The sale was done. The lady was pulling off. I'm  
23 getting out the car, got my money back in my pocket and  
24 everything.

25 Q. What had you sold the lady?

1 A. I think it was like a 40 sale.

2 Q. I'm sorry?

3 A. A 40 sale.

4 Q. A 40 sale of what?

5 A. Crack cocaine.

6 Q. Okay. And then what happened after that?

7 A. Well, after that, I'm getting out the car, he hollering  
8 "Doors" or whatever. So he pulled off and I walk back down to  
9 the corner right there in front of 3401 and he come back, him,  
10 Little Jazz and I think that was Dre that was with him. I  
11 believe it was.

12 Q. Who's "him"?

13 A. Phil, Little Jazz and Dre. So I knew they was going to  
14 try something, but I didn't know what he was going to try. So  
15 when he jumped out of the car, he walked up on me, he pulled his  
16 gun out and was like, "Give me that shit."

17 I'm like, "Man, Phil, go ahead. I ain't going to let you  
18 rob me." So he go to try to hit me with the gun. He try to hit  
19 me with the gun.

20 Q. Were you hit?

21 A. I think he hit me one time in my ear or something, so I  
22 just went ahead and gave him my money. And he was like, "Give  
23 me your coat, too." And I was like, "You ain't getting my  
24 coat."

25 So Twan walked through the alley --

1 Q. Is that Antwuan Ball?

2 A. Yes, sir.

3 Q. The person you identified yesterday?

4 A. Yes, sir. He was coming through the alley like behind  
5 3402. He was coming through this alley right here (indicating).

6 Q. And for the record, you pointed a line to the right of  
7 the number "13," right above the "1" on 13th Place?

8 A. Yeah, right above the "1," but it's more like in the  
9 alley. It won't let me point exactly where I'm trying to point  
10 at.

11 But Twan was coming through the alley and, you know, a  
12 whole lot of commotion was going on. I was mad. I was cussing  
13 and I was fussing and this and that and this and that and the  
14 other. And Twan called both of us over and asked what was going  
15 on.

16 Q. Twan called both of who over there?

17 A. Me and Phil. And I told Twan, Phil just robbed me. And  
18 Twan was like, "Phil, you got to give him that shit back because  
19 that's my shit he got."

20 Q. What did you understand Twan was talking about when he  
21 said "that shit back"?

22 A. My -- the coke, because I had -- he had fronted me the  
23 coke.

24 Q. Who had fronted you the coke?

25 A. Antwuan. He had fronted me some coke and so he told --

1 he told Phil to give me that shit back. And Phil was like -- he  
2 asked him how much he took. Phil was like, "I only took a  
3 hundred dollars from him," but he actually took 300 from me.

4 Q. Who asked who about how much money they took?

5 A. Twan asked Phil how much he took from me. Phil was like,  
6 "A hundred dollars," but he took 300. So I tried to argue about  
7 it and this, that, this and that. And Twan was just like,  
8 "Leave it alone." So I left it alone.

9 Q. Did Phil give you back the stuff?

10 A. He gave me back the hundred dollars.

11 Q. And that was after Antwuan told him to give it back to  
12 you?

13 A. Yes, sir.

14 Q. How much had you gotten front from Twan before you were  
15 robbed?

16 A. I think I got like a quarter from him.

17 Q. I'm sorry?

18 A. A quarter.

19 Q. A quarter of what?

20 A. Cocaine.

21 Q. And you said it was fronted?

22 A. Yes, sir.

23 Q. And again, was Baby Kairi around during that incident?

24 A. I think he was locked up during this time, too.

25 Q. How about LT? Did there come a point when LT actually

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, : Docket No. CR 05-100  
: :  
Plaintiff : v.  
: : Washington, DC  
: :  
ANTWUAN BALL, : :  
DAVID WILSON, : :  
GREGORY BELL, : May 21, 2007  
DESMOND THURSTON, : :  
JOSEPH JONES, : :  
DOMINIC SAMUELS, : :  
: Defendants : 2:00 p.m.  
: . . . . . : . . . . .

VOLUME 53 - AFTERNOON SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS,  
UNITED STATES DISTRICT JUDGE, and a jury

APPEARANCES:

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GLENN S. LEON, ESQUIRE  
GIL GUERRERO, ESQUIRE  
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1747 Pennsylvania Avenue, NW  
Suite 300  
Washington, DC 20006  
(202) 454-2811

1 MS. WICKS: No objection.

2 THE COURT: Request granted.

3 BY MR. GUERRERO:

4 Q. Let's pause and focus on '95 to '97. During that time  
5 period, did you ever sale crack cocaine with Don?

6 A. Yes, sir.

7 Q. And explain how that relationship started between you with  
8 Don, if any relationship happened.

9 A. Well, I had a little summer job. When I first started  
10 hustling, I wasn't consistently hustling. I got a little summer  
11 job --

12 Q. I need you to speak up. Okay?

13 A. When I first started hustling, I wasn't hustling  
14 consistently. But I had got a summer job -- and, like I say, I  
15 was pretty close with Jazz. And I got a summer job, and around  
16 that time I was working my summer job, Don had start coming back  
17 around Congress Park. And he was working out Boston Market,  
18 and, you know, me, him, and Jazz used to hang out a lot, smoke  
19 weed or whatever.

20 I had, like, my last check from my summer job, and I  
21 think I got an eight-ball from Jazz, and then I was hustling,  
22 you know. It used to be me, Don, and Jazz together, so I guess  
23 you can say I was hustling with them.

24 Q. And how many times did you purchase crack cocaine from Jazz,  
25 with a J?

1 A. Well, I think like one or two times when I first started,  
2 then I start putting my money with theirs.

3 Q. You started putting your money with whom?

4 A. Jazz and Don.

5 Q. And how often did you put your money with Jazz and Don?

6 A. I really can't give you a number offhand. But it was just  
7 about any time I needed coke, I put my money with them.

8 Q. And would you three get wholesales or would you get a lump  
9 sum?

10 A. We get a lump sum. Well, it wasn't actually like -- I put  
11 my money with them, because I don't know whether it was Jazz or  
12 Don, one of them had the connect. So I put my money with them,  
13 they get their coke, and they just give me what I paid for.

14 Q. And did you ever go with Don or Jazz to go get the crack  
15 cocaine?

16 A. No, sir. No, sir.

17 Q. Did Jazz ever tell you where it was coming from?

18 A. No, sir.

19 Q. How about Don? Did he ever tell you where it was coming  
20 from?

21 A. No, sir.

22 Q. And when you got the crack cocaine, where would you, Jazz,  
23 and Don sell it?

24 A. In the circle.

25 Q. And is that 13th Place, where you mentioned before?

1 A. Yes, sir.

2 Q. How often in '95 to '97 would you sell crack cocaine in the  
3 circle with Jazz and Don?

4 A. Just about every day. Every time that I had coke, I sell it  
5 in the circle.

6 Q. And would that be during the night, during the evening, or  
7 both?

8 A. Both.

9 Q. What's the largest amount that you recall of crack cocaine  
10 getting in conjunction with Jazz and Don?

11 A. Well, back then I think the largest amount I ever got was  
12 like a half ounce.

13 Q. Back then, did you ever get any crack cocaine from Burke  
14 when you were dealing with Jazz and Don?

15 A. Naw, just that first time.

16 Q. How long did you sell crack cocaine with Jazz and Don during  
17 that time period?

18 A. It wasn't long. It was couple of months through the summer,  
19 through the fall. I think like around about that springtime we  
20 kind of went our different ways.

21 Q. And do you recall what year this was, or was it just in that  
22 general time period?

23 A. I don't recall what year it was.

24 Q. You said earlier that you recall that Don had just come  
25 back. Do you recall that?

1 Q. And you said that earlier you saw a person named Wop?

2 A. Yes, sir.

3 Q. And relative to where Wop is, where is Boy-Boy?

4 A. Sitting behind him.

5 MR. GUERRERO: Note an in-court identification of  
6 Mr. Bell.

7 MR. BEANE: No objection.

8 THE COURT: Request is granted.

9 BY MR. GUERRERO:

10 Q. Okay. During that time period, '95 to '97, did you ever get  
11 any crack cocaine --

12 MR. BEANE: Objection. Leading.

13 THE COURT: Finish the question.

14 BY MR. GUERRERO:

15 Q. From anyone other than the persons that you just told us  
16 about?

17 THE COURT: Overruled.

18 A. The question was kind of broken up. I really didn't  
19 understand.

20 BY MR. GUERRERO:

21 Q. All right. You told us that you were getting some crack  
22 cocaine in conjunction with Jazz and Don. Do you remember that?

23 A. Yes, sir.

24 Q. And during that same time period, '95 to '97, did you ever  
25 get any crack cocaine from other persons?

1 A. Eventually, yes.

2 Q. All right. And eventually you got crack cocaine from whom?

3 A. Boy-Boy.

4 Q. When did that start, do you think?

5 A. It's like around about the time that I start really putting  
6 my money with Jazz and Don.

7 Q. And how much crack cocaine do you recall getting from  
8 Boy-Boy?

9 A. Well, at that time I was getting like wholesales,  
10 eight-balls. I believe back at that time I was only getting  
11 wholesales from him.

12 Q. How often would you get wholesales from Boy-Boy?

13 A. At that time I really can't put a number on it, but I got it  
14 from him a couple of times.

15 Q. And in your experience, was Boy-Boy a good wholesale  
16 supplier?

17 A. Yes, sir.

18 MR. BEANE: Objection. Speculation.

19 THE COURT: Overruled.

20 BY MR. GUERRERO:

21 Q. And what was your answer?

22 A. Yes, sir.

23 Q. And did you term him something?

24 A. Wholesale King.

25 Q. The Wholesale King?

1 A. Yes, sir.

2 Q. And you mean by that what?

3 A. He had wholesale whenever you need it.

4 Q. Do you recall where Boy-Boy used to live back then?

5 A. At that time, no.

6 Q. All right. After you stopped hanging around with Jazz and

7 Don, who did you then start to hang around with?

8 A. Well, after that time I start hanging with Jazz and Don, I

9 basically was like by myself. Me and Birdman was hanging out

10 for a minute.

11 Q. You and Birdman?

12 A. Yes, sir.

13 Q. And do you know Birdman's real name?

14 A. It's Aman.

15 Q. And do you know if Aman or Birdman had any brothers?

16 A. Yes, sir.

17 Q. And which were the brothers that you knew of Birdman?

18 A. Well, one was deceased and the other one was Antwuan Ball.

19 Q. And if you saw Antwuan Ball again, would you recognize him?

20 A. Yes, sir.

21 Q. Please stand up and tell us if you see him.

22 A. Yes, sir.

23 Q. And what is he wearing?

24 A. I think that's a black tie, tan, black pants.

25 Q. Is that the gentleman who is just standing behind me?

1 Q. And Phil, would you see him often selling crack cocaine in  
2 the circle?

3 A. Yes, sir.

4 Q. Little Terrence?

5 A. Yes, sir.

6 Q. And LT?

7 A. Yes, sir.

8 Q. While you were out there -- and now I would like to go a  
9 little bit further, now, after you start -- after you hang  
10 around with Birdman, who did you start to get crack cocaine from  
11 after Birdman, after you were hanging around with Birdman?

12 MR. MARTIN: Time frame, Your Honor, please. Time  
13 frame.

14 BY MR. GUERRERO:

15 Q. When you were hanging around with Birdman, around what year  
16 did that stop?

17 A. What year did me and Birdman stop hanging around each other?

18 Q. Yeah.

19 A. I don't know. Me and Birdman, we always kind of hung out  
20 real tough. Because Birdman was Baby Ki older cousin, you know,  
21 and Baby Ki came home, and it had to be before '98.

22 So I'm going to say around about like '97, Baby Ki came  
23 home like around about '97, the winter of '97, and, you know, so  
24 I kind of always hung around Birdman.

25 Q. And you said you clicked with Baby Ki?

1 A. Yes, sir.

2 Q. And what did you guys start to do once Baby Ki came home?

3 A. We start hustling together. We became like best friends.

4 I'm not going to just say we hustled together, because we became  
5 real good friends.

6 Q. And did that include getting crack cocaine together?

7 A. Yes, sir.

8 Q. And how often would you and Baby Ki get crack cocaine  
9 together?

10 A. Oh, it got to a point where we was putting our money in  
11 together all the time getting crack cocaine.

12 Q. Did you ever go with Baby Ki to get the crack cocaine?

13 A. No, sir.

14 Q. Did you ever give him money?

15 A. Yes, sir.

16 Q. How often would you give Baby Ki money?

17 A. Every time we needed it.

18 Q. And what would Baby Ki give you in return, if anything?

19 A. Well, it started off -- well, it started off, I put my money  
20 with him; whatever I paid for, that's what I got back.

21 Then it got to a point whereas though everything we  
22 got, we was splitting it down the middle, whether I had the  
23 majority of the money or whether he had a majority of the money.

24 Q. So let's start with the beginning. What kind of quantities  
25 were you getting from Baby Ki when you first started to hang out

1 with him?

2 A. When I first started hanging out with Baby Ki, we was  
3 getting like halves.

4 Q. Halves of what?

5 A. Halves of coke, cocaine.

6 Q. Crack cocaine?

7 A. Crack.

8 Q. And where would you sell that crack cocaine?

9 A. In the circle.

10 Q. And you said that your relationship grew into a friendship?

11 A. Yes.

12 Q. And then that you also started to split up quantities that  
13 you bought?

14 A. Yes.

15 Q. And what was the largest quantity that you bought with  
16 Baby Ki?

17 A. Through the whole time I known him?

18 Q. Yeah.

19 A. Probably like three to four ounces.

20 Q. Did you ever go with him to find out where he was buying it  
21 from?

22 A. Like when we was getting coke from Burke, I was probably  
23 going with him a couple of times then.

24 Q. Did Baby Ki ever tell you where he was getting it from,  
25 apart from Burke?

1 A. Apart from Burke? Not all the time.

2 Q. Did Baby Ki ever reference Antwuan Ball?

3 A. Yes, sir.

4 Q. And what did Baby Ki say about Antwuan Ball?

5 A. If he got his coke from Twuan, he'll say he got the coke  
6 from Twuan. If we got it fronted from Twuan, he be like, "Twuan  
7 fronted this, so we need to hurry up and get him his money  
8 back."

9 Q. How often did you get crack cocaine from Twuan or Mr. Ball?

10 A. I ain't get probably but like four times throughout.

11 Q. Throughout the time period?

12 A. Throughout the time period, probably like four or five  
13 times.

14 Q. And what was the largest quantity that you got from  
15 Mr. Ball?

16 A. I think it was about a half ounce.

17 Q. Did you buy that alone or with Baby Ki?

18 A. I bought it -- well, he got -- he fronted it to me, me and  
19 Baby Ki. He fronted it to us.

20 Q. What does "fronted" mean?

21 A. He gave it to us and we had to pay him back.

22 Q. And how long did you have to pay Antwuan Ball back?

23 A. Oh, you ain't have long to pay Twuan back.

24 Q. Why not?

25 A. It was just you knew to give Twuan his money ASAP.

1 Q. I don't understand. Explain that.

2 A. Because, man, Twuan was like, he would press up on you for  
3 his money. So if you ain't give him his money back, you was  
4 going to get pressed up for it.

5 Q. Did he ever press you up?

6 A. No. Because I always got his money back.

7 Q. Did you ever see Antwuan Ball press up anybody else?

8 A. No, I ain't never seen him press up nobody else, but I seen  
9 Baby Ki --

10 MR. CARNEY: Objection.

11 THE COURT: Sustained.

12 BY MR. GUERRERO:

13 Q. Did you ever seen anyone else who was being pressed by  
14 Antwuan Ball?

15 A. I never actually witnessed him press nobody, but --

16 MR. CARNEY: Objection.

17 MR. MARTIN: Objection.

18 THE COURT: Sustained.

19 BY MR. GUERRERO:

20 Q. Did you ever talk to Baby Ki about Baby Ki being pressed?

21 A. Yes.

22 Q. What did Baby Ki say?

23 A. I remember a point -- I remember this was like around about  
24 2002, he came in my mother house one day and he was like -- he  
25 was real nervous. He was like, "Man, I got to get Twuan" -- he

1 had got all this coke from --

2 MR. BALAREZO: Objection, Your Honor. Objection. I'm  
3 sorry, I should have done it earlier.

4 THE COURT: Beg your pardon?

5 MR. BALAREZO: Objection.

6 THE COURT: Basis?

7 MR. BALAREZO: 602. It's hearsay, it's not in  
8 furtherance.

9 THE COURT: Overruled.

10 MR. ZUCKER: It's also a narrative at this point.

11 THE COURT: Overruled.

12 BY MR. GUERRERO:

13 Q. What did Baby Ki say?

14 A. Baby Ki, he probably got like about a six-deuce from Twuan,  
15 and he was like --

16 MR. ZUCKER: Objection. Speculation.

17 A. -- he got to hurry up and give Twuan his money.

18 MR. ZUCKER: Objection, speculation, "probably got a  
19 six-deuce."

20 THE COURT: Overruled.

21 BY MR. GUERRERO:

22 Q. I need for you to speak nice and clear for us, okay, right  
23 in the mic.

24 A. Okay.

25 Q. Tell us what it was that Baby Ki said about owing money.

1 A. He got about a six-deuce from Twuan, and he was, like, "Man,  
2 I got to hurry up and get Twuan back his money." I was, like,  
3 "Man, better you than me," my exact words to him.

4 Q. And what was Baby Ki's condition?

5 A. Well, he was high, for one, and he was just real nervous.

6 Q. Did you ever owe Antwuan Ball money for crack cocaine?

7 A. Yes.

8 Q. And how long did it take for you to pay him back?

9 A. Oh, it ain't take me long, probably two days, tops. But I  
10 never really got nothing too big from him whereas though I'm  
11 going to have to worry about owing him a lot of money. Probably  
12 the most I ever owed him --

13 MR. BALAREZO: Objection. Narrative.

14 THE COURT: Sustained.

15 BY MR. GUERRERO:

16 Q. How about Boy-Boy? Did you ever owe him money?

17 A. Yes, sir.

18 Q. And do you still owe him money?

19 A. I believe I do still owe him \$250.

20 Q. You owe him \$250 for what?

21 A. I don't know whether -- I want to say --

22 MR. BEANE: Objection, Your Honor. Speculation.

23 THE COURT: I'll let him answer.

24 A. I want to say it was for a quarter, but I believe it was for  
25 a half. I think I gave him 250; he gave me a half he charged me

1 500 for, and I just never gave his 250 back.

2 BY MR. GUERRERO:

3 Q. So a quarter of what?

4 A. Crack cocaine.

5 Q. Or a half of?

6 A. Crack cocaine.

7 Q. And you haven't paid him back yet?

8 A. No, sir.

9 Q. Now I want to focus on that time period where you were  
10 hanging around with Baby Ki. And that's where we last left off.

11                   Apart from the circle, was there anywhere else in  
12 Congress Park that you would sell your crack cocaine?

13 A. Throughout the park, in the alley, on the ho stroll. We  
14 rarely went around 14th Place, but I probably made one or two  
15 sales on 14th Place. Just guessing, but we barely went around  
16 14th Place. But in the Lincolns.

17 Q. How often would you sell in the Lincoln?

18 A. For a minute. Like during, like, 2001, 2000, probably, we  
19 was hanging in the front of the Lincoln, so...

20 Q. Who was hanging in front of the Lincoln?

21 A. Oh, me, Wop, Dazz, Santu, Jazz, Phil, Munya, Keith B, yeah.  
22 DC and Don ain't hanging at the Lincolns all like that at this  
23 time.

24 Q. You said who wasn't hanging there at that time?

25 A. DC and Don.

# EXHIBIT R

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :  
:  
Plaintiff, : Docket No. CR 05-100  
:  
v. :  
:  
ANTWUAN BALL, DAVID WILSON, : Washington, DC  
GREGORY BELL, DESMOND :  
THURSTON, JOSEPH JONES, and : April 2, 2007  
DOMINIC SAMUELS, : 9:15 a.m.  
:  
Defendants. :  
:  
:

VOLUME 27 - MORNING SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS  
UNITED STATES DISTRICT COURT JUDGE, and a JURY

APPEARANCES:

For the United States: UNITED STATES ATTORNEY'S OFFICE  
Glenn S. Leon, Assistant United  
States Attorney  
Ann H. Petalas, Assistant United  
States Attorney,  
Gilberto Guerrero, Assistant  
United States Attorney  
555 4th Street  
Washington, DC 20001  
202.305.0174

For Defendant  
Antwuan Ball: CARNEY & CARNEY  
John James Carney, Esq.  
South Building  
601 Pennsylvania Avenue, N.W.  
Washington, DC 20004  
202.434.8234

Q. And during this time period, and I want to be clear on this -- during this time period, I'm referring to 1995 up until early 1996, when you said Troy Lewis was killed, around that time, what was your relationship -- you, Bobby Capies -- with Antwuan Ball?

A. We was cool.

Q. What do you mean by that?

A. I was dealing with him. I was getting drugs from him.

Q. Beyond just buying drugs from him or getting fronted crack from him, did you have any further relationship with him?

A. Friends.

Q. And what do you mean by that?

A. Friends, buddies, hanging out, you know, riding around, smoking, drinking.

Q. Who was older, you or him?

A. He was, sir.

Q. Who had more friends -- withdrawn.

In Moms' apartment, just staying there for the final few questions, how did Antwuan Ball carry himself?

MR. TABACKMAN: Objection.

MR. ZUCKER: Objection.

THE COURT: Do you understand the question?

THE WITNESS: Yes, sir.

THE COURT: Huh?

THE WITNESS: Yes, I understand.

THE COURT: I'll allow it.

THE WITNESS: He was a leader, sir.

BY MR. LEON:

Q. What do you mean by that?

A. What he say goes.

Q. What do you mean by that?

A. If he say, you know, make this move or take this, it goes.

Q. And if he would say something like that, who, if anyone, would respond?

A. I mean, Jo-Jo was like the type, he had his own mind, but like the other guys that was in there and the younger group, we listened to him.

Q. When you say "like the younger group," who in your mind do you mean, the younger group?

A. Wop, Dazz, me, Baby Kai, Head, Truck, all those type of guys, we listened to him; Drano, Doo-Doo.

Q. Now, I'd like to jump ahead. Do you remember, we talked on Thursday about '92 to '96? I'd like to now jump to beginning in 1996 up until your incarceration in 2001, okay?

So now the majority of my remaining questions are going to be regarding this five or six-year period of time, okay?

A. Yes, sir.

Q. Okay. I believe you testified on Thursday that around some point, '96 or so -- well, let me withdraw that.

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, : Docket No. CR 05-100  
: :  
Plaintiff : :  
v. : Washington, DC  
: :  
ANTWUAN BALL, : :  
DAVID WILSON, : :  
GREGORY BELL, : April 23, 2007  
DESMOND THURSTON, : :  
JOSEPH JONES, : :  
DOMINIC SAMUELS, : :  
Defendants : 1:50 p.m.  
: :  
\* \* \* \* \*

VOLUME 38 - AFTERNOON SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS,  
UNITED STATES DISTRICT JUDGE, and a jury

APPEARANCES:

For the United States: ANN H. PETALAS, ESQUIRE  
GLENN S. LEON, ESQUIRE  
GIL GUERRERO, ESQUIRE  
UNITED STATES ATTORNEY'S OFFICE  
555 Fourth Street, NW  
Washington, D.C. 20530

For the Defendant  
Antwuan Ball: JOHN JAMES CARNEY, ESQUIRE  
CARNEY & CARNEY  
601 Pennsylvania Avenue, NW  
Suite 900, South Building  
Washington, DC 20004  
(202) 434-8234

STEVEN CARL TABACKMAN, ESQUIRE  
TIGHE, PATTON, ARMSTRONG,  
TEASDALE, PLLC  
1747 Pennsylvania Avenue, NW  
Suite 300  
Washington, DC 20006  
(202) 454-2811

1 Q. And had you seen Antwuan in any area in specific, over in  
2 Congress Park, right up until that point?

3 A. Yeah.

4 Q. Where had you seen him around?

5 A. Same places, riding through 13th Place, 14th Place,  
6 Boat Alley.

7 Q. And when you saw Antwuan in those areas, what did you see  
8 with respect to how he interacted with other people?

9 A. Same demeanor. I mean, to me, my observation of him, he was  
10 always a serious individual.

11 Q. Did you ever see any of the other individuals show him some  
12 respect?

13 A. Yeah.

14 MR. MARTIN: Objection. Leading.

15 MS. WICKS: Objection.

16 THE COURT: Sustained.

17 BY MR. GUERRERO:

18 Q. Give us some more detail about the interactions you observed  
19 of Antwuan with other people from Congress Park.

20 A. Kind of like, like I said, he just demanded respect. It's  
21 like, say, for instance, if people were around and he come up,  
22 like if you were around --

23 MR. BALAREZO: Your Honor, objection to -- it seems to  
24 be some kind of example, not some sort of fact that this witness  
25 witnessed.

1 THE COURT: Overruled.

2 BY MR. GUERRERO:

3 Q. Tell us, please.

4 A. For instance, if it was like -- if we were outside giggling,  
5 running around, playing, if he came up, it got a little more  
6 serious. Everybody would kind of cut out the playing.

7 Q. How often did you see that?

8 A. A few times.

9 Q. Now, in '95, back to you, who were you receiving your crack  
10 cocaine from?

11 A. '95, it was off and on with Quincy Thomas, mostly.

12 Q. How about in '96?

13 A. '96, I had a brief moment where I didn't do anything for  
14 about six to eight months, something like that.

15 Q. Why did you not do anything?

16 A. I'd received a significant raise from my job.

17 Q. And when you say didn't do anything, what are you talking  
18 about?

19 A. Distribute any drugs.

20 Q. What kind of raise did you get from your work?

21 A. I went from about 16 bucks an hour to about 22.50.

22 Q. Was it a promotion or a financial increase?

23 A. A promotion.

24 Q. What kind of job did you get promoted to?

25 A. Office manager. And I overseen a naval warfare contract.

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA,	:	Docket No. CR 05-100
	:	
Plaintiff	:	
	:	
v.	:	Washington, DC
	:	
ANTWUAN BALL,	:	
DAVID WILSON,	:	
GREGORY BELL,	:	April 16, 2007
DESMOND THURSTON,	:	
JOSEPH JONES,	:	
DOMINIC SAMUELS,	:	
	:	
Defendants	:	1:55 p.m.
• • • • •	:	• • • • •

VOLUME 34 - AFTERNOON SESSION  
 TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
 BEFORE THE HONORABLE RICHARD W. ROBERTS,  
 UNITED STATES DISTRICT JUDGE, and a jury

**APPEARANCES:**

For the United States:	ANN H. PETALAS, ESQUIRE GLENN S. LEON, ESQUIRE GIL GUERRERO, ESQUIRE UNITED STATES ATTORNEY'S OFFICE 555 Fourth Street, NW Washington, D.C. 20530
For the Defendant Antwuan Ball:	JOHN JAMES CARNEY, ESQUIRE CARNEY & CARNEY 601 Pennsylvania Avenue, NW Suite 900, South Building Washington, DC 20004 (202) 434-8234
	STEVEN CARL TABACKMAN, ESQUIRE TIGHE, PATTON, ARMSTRONG, TEASDALE, PLLC 1747 Pennsylvania Avenue, NW Suite 300 Washington, DC 20006 (202) 454-2811

1 Q. All right. Now, you said that you and Mr. Ball got kind of  
2 tight?

3 A. Yes, we got pretty close.

4 Q. Pretty close is the word -- the phrases you used.

5 A. Yeah.

6 Q. What does that mean, you got pretty close?

7 A. Like I say, I was trying to get to know him for  
8 business-wise. I seen the potential that he could make some  
9 money. And if he make some money, I make money.

10 Q. What does that mean, you saw the potential?

11 A. A few times I met him around Congress Park, I seen the  
12 respect that he carried around there.

13 Q. Let's break that down for a second. When you met him in  
14 Congress Park, where was it that you recall seeing Mr. Antwuan  
15 Ball?

16 A. In the alley.

17 MR. GUERRERO: Mr. Mazzitelli, may we go back to 105.1,  
18 please?

19 BY MR. GUERRERO:

20 Q. Do you see Government's Exhibit 105.1, a close-up of  
21 Congress Park?

22 A. Yes.

23 Q. And you said that you saw Mr. Antwuan Ball on occasions in  
24 an alley. Do you see the alley?

25 A. Yes.

1 Q. After the first occasion, is that when you used to go to  
2 this area, the alley, to meet Mr. Ball?

3 A. Yes.

4 Q. And you used a term, "he," as in Mr. Ball, "had potential."

5 A. Yes.

6 Q. What would you see happen in that alley when you saw  
7 Mr. Ball there?

8 A. Well, when I pull up in the alley, I see he had a lot of  
9 respect in the alley from a lot of the young guys around there.

10 Q. What does that mean? What would you see the young guys do  
11 around Mr. Ball?

12 A. The younger guys, just some of the ways wanted to be like  
13 him, always wanted to be around him.

14 Q. And did you talk -- excuse me. Did you talk to Mr. Ball  
15 about your interest in that alley?

16 A. Yes.

17 Q. What did you say?

18 A. I was trying to get him to sell more crack cocaine.

19 Q. And how did you approach him in that regard?

20 A. Well, I asked him, if he can do better, we can have the park  
21 in our park.

22 Q. What was Mr. Ball's response?

23 A. He was telling me he got the alley, that's his spot, that's  
24 his strip.

25 Q. He got the alley, that's his spot, that's his strip?

1 A. Right.

2 Q. What did you understand he was talking about?

3 A. On the street level, when we say, "This is our spot, this is

4 our strip," it mean we run the strip. That's ours.

5 Q. You run the strip?

6 A. Yes.

7 Q. Doing what?

8 A. Selling all the drugs that come through there is pretty much

9 mine's or yours.

10 Q. Now, we talked about one occasion where you sold Mr. Ball

11 crack cocaine. The second occasion that you sold Mr. Ball crack

12 cocaine, do you remember the quantity that it was?

13 A. No, I don't remember.

14 Q. How about the third occasion? Do you recall?

15 A. Anywhere from a 62 to a -- 62 to an eighth.

16 Q. In comparison to the first time that you sold Antwuan Ball

17 crack cocaine towards the end of the sales, was he buying the

18 same, less, or more from you?

19 A. Well, towards the end, he purchased an eighth of a key from

20 me.

21 Q. And an eighth of a key is how much?

22 A. It's 3,000. At the time it was a shortage, so I had to

23 charge him 4,000 for it.

24 Q. What does that mean, there was a shortage?

25 A. It's when it's hard, when cocaine is hard to find in the

9090

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, : Docket No. CR 05-100  
: :  
Plaintiff : :  
: :  
v. : Washington, DC  
: :  
ANTWUAN BALL, : :  
DAVID WILSON, : :  
GREGORY BELL, : April 30, 2007  
DESMOND THURSTON, : :  
JOSEPH JONES, : :  
DOMINIC SAMUELS, : :  
: :  
Defendants : 9:15 a.m.  
\* \* \* \* \*

VOLUME 42 - MORNING SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS,  
UNITED STATES DISTRICT JUDGE, and a jury

APPEARANCES:

For the United States: ANN H. PETALAS, ESQUIRE  
GLENN S. LEON, ESQUIRE  
GIL GUERRERO, ESQUIRE  
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TIGHE, PATTON, ARMSTRONG,  
TEASDALE, PLLC  
1747 Pennsylvania Avenue, NW  
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Washington, DC 20006  
(202) 454-2811

1 Q. Okay. And when you met Antwuan Ball through Cody, did you  
2 meet anyone else at that initial time in addition to  
3 Antwuan Ball when you got your hair cut?

4 A. Sure. I mean, I don't know if I met everybody the same day.

5 Q. And when you say "everybody the same day," at some point did  
6 you get to know other people who Antwuan Ball associated with in  
7 Congress Park?

8 A. Sure.

9 Q. And who were those people, or some of those people?

10 A. Jojo, Antwuan, Tony. I mean, Jazz, Santu. I'm sure there's  
11 others. I just can't -- not off the top of my head.

12 Q. Yes or no, do you know somebody by the name of Dazz, Dazz  
13 with a D?

14 A. I'm familiar with him.

15 Q. Okay. And yes or no, are you familiar with somebody by the  
16 name of Dom?

17 A. Dom? Yeah, I think I'm familiar with him.

18 Q. And just yes or no, did you become familiar with someone by  
19 the name of Wop or Cool Wop?

20 A. I'm familiar with him.

21 Q. Now, when you first got to know Antwuan Ball during these  
22 first few encounters, did you end up deciding to spend more time  
23 with him?

24 MS. WICKS: Objection as to leading.

25 THE COURT: I'll allow it.

1 A. He was a person of interest.

2 BY MR. LEON:

3 Q. To you?

4 A. Sure.

5 Q. Why?

6 A. Because of his influence.

7 Q. What do you mean by that, because of his influence?

8 A. Well, when you're in a position like I was in at the time,  
9 you got to -- it's always good to align yourself with somebody  
10 who has influence when you're dealing drugs, especially in the  
11 neighborhood that I'm in.

12 Q. You just said a couple of things I need to follow up on.

13 The first thing I think you said was referring to you,  
14 to yourself, when you're a person, words of the effect of "in  
15 the position you were in." What did you mean by that?

16 A. Well, we're all trading in illegal business, so if you're a  
17 person who can get large quantities of drugs, you know, and you  
18 running from an indictment in Virginia, you know, I'm looking at  
19 trying to find somewhere else to unload these drugs.

20 Q. At that time, 1999, when you were hanging out with Cody and  
21 you go to the barbershop, did you drive any cars?

22 A. I had quite a few cars.

23 Q. What kind of cars did you have back then?

24 MS. WICKS: Objection as to relevancy.

25 THE COURT: As to what?

1 MS. WICKS: Relevancy.

2 THE COURT: Overruled.

3 BY MR. LEON:

4 Q. What kind of cars?

5 A. Chevy truck, Trans Am, Ford, Ford truck, Acura Legends.

6 Q. And did you drive these vehicles -- I'm sorry, were you  
7 done?

8 A. I'm still thinking. Yeah, I'm done.

9 Q. And did you drive these vehicles in Congress Park in 1999?

10 A. Sure.

11 Q. Did you -- just yes or no at this point, did you reach any  
12 conclusions, yes or no, in your own mind, as to what position,  
13 if any, Mr. Ball had in the Congress Park neighborhood in 1999?

14 MS. WICKS: Objection.

15 MR. PURPURA: Objection.

16 MR. ZUCKER: Objection.

17 THE COURT: Sustained.

18 BY MR. LEON:

19 Q. You said that Mr. Ball was a person of interest to you. Why  
20 was he a person of interest to you?

21 MS. WICKS: Objection.

22 THE COURT: Basis?

23 MS. WICKS: Asked and answered and relevancy.

24 MR. ZUCKER: Also foundation.

25 THE COURT: I'll sustain it as to asked and answered.

1 BY MR. LEON:

2 Q. Did you ever -- once you reached the conclusions that you  
3 did regarding Antwuan Ball, did you spend more or less time with  
4 him?

5 A. I guess we started spending more time together.

6 Q. Did you, during that period, 1999, 2000, and 2001, until you  
7 were locked up in May of 2001, during those two to three years,  
8 did you develop a friendship with Antwuan Ball?

9 A. I don't know if you call it that, but...

10 MS. WICKS: Objection as to leading.

11 BY MR. LEON:

12 Q. Well, would you call it a friendship?

13 THE COURT: I'm sorry, was that an objection?

14 MR. TABACKMAN: Objection as to leading.

15 MS. WICKS: I'm sorry, Your Honor. Yes, objection as  
16 to leading at this point.

17 THE COURT: Sustained. But you can rephrase.

18 BY MR. LEON:

19 Q. How would you describe your relationship with Antwuan Ball  
20 as it developed during those years?

21 A. I would say it was more a relationship of I could help him,  
22 he could help me.

23 Q. How do you mean? What do you mean by that?

24 A. I can get drugs and he can help me get rid of them, or make  
25 it to where I can get rid of them.

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :  
:  
Plaintiff, : Docket No. CR 05-100  
:  
v. :  
:  
ANTWUAN BALL, DAVID WILSON, : Washington, DC  
GREGORY BELL, DESMOND :  
THURSTON, JOSEPH JONES, and : May 17, 2007  
DOMINIC SAMUELS, : 9:15 a.m.  
:  
Defendants. :  
:  
:

VOLUME 52 - MORNING SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS  
UNITED STATES DISTRICT COURT JUDGE, and a JURY

APPEARANCES:

For the United States: UNITED STATES ATTORNEY'S OFFICE  
Glenn S. Leon, Assistant United  
States Attorney  
Ann H. Petalas, Assistant United  
States Attorney,  
Gilberto Guerrero, Assistant  
United States Attorney  
555 4th Street  
Washington, DC 20001  
202.305.0174

For Defendant  
Antwuan Ball: CARNEY & CARNEY  
John James Carney, Esq.  
South Building  
601 Pennsylvania Avenue, N.W.  
Washington, DC 20004  
202.434.8234

1 BY MR. LEON:

2 Q. And is Joseph Jones, to your knowledge, the same age,  
3 older or younger than you?

4 A. He's older than me.

5 Q. Now, when you saw Antwuan Ball hanging out with Jo-Jo and  
6 the other people you mentioned, what, if anything, did you see  
7 Antwuan do?

8 A. He used to be out there --

9 Q. In The Circle, I'm talking about.

10 A. In The Circle?

11 Q. Yes.

12 A. Sell drugs.

13 Q. What kind of drugs?

14 A. Crack, weed, Ecstasy.

15 Q. What impression, if any, did you get as to Antwuan Ball's  
16 status in the neighborhood at that time?

17 MR. BALAREZO: Objection.

18 MR. MARTIN: Objection.

19 THE COURT: Sustained.

20 BY MR. LEON:

21 Q. Did you -- based on your observations, tell us what you  
22 saw Antwuan doing in The Circle, other than selling drugs?

23 A. He was running house, you know. He ran Congress Park.

24 Q. What do you mean by that?

25 A. Basically, whatever a man -- a person -- whatever he

1 wanted somebody to do, they'd do. If something was going down,  
2 they'd go to Antwuan.

3 MR. CARNEY: Objection, Your Honor, 602.

4 THE COURT: Why don't you establish foundation.

5 BY MR. LEON:

6 Q. Okay. You told us "running house." First of all, in  
7 your own words, what does that mean?

8 A. Basically, running the show. I mean, everybody looked up  
9 to him around there.

10 Q. Okay. And when you say "everybody looked up to him  
11 around there," is that based on your own observations?

12 A. Yes, from what I could see.

13 Q. From what you could see, tell us what you mean when you  
14 said everyone looked up to Antwuan.

15 A. They looked up to him. He was older. I guess he was  
16 putting in most of the work around there.

17 MS. WICKS: Objection.

18 MR. ZUCKER: Objection.

19 THE COURT: Sustained.

20 BY MR. LEON:

21 Q. Don't guess. Just tell us what you saw, how you saw  
22 Antwuan interact with others and others interact with Antwuan.  
23 You can tell us about that.

24 A. From what I could see, he -- at that time, he basically  
25 man. He was in charge. I mean, the things he used to say to

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, : Docket No. CR 05-100  
: :  
Plaintiff : :  
: :  
v. : Washington, DC  
: :  
ANTWUAN BALL, : :  
DAVID WILSON, : :  
GREGORY BELL, : May 21, 2007  
DESMOND THURSTON, : :  
JOSEPH JONES, : :  
DOMINIC SAMUELS, : :  
: :  
Defendants : 2:00 p.m.  
: : . . . . . : . . . . .

VOLUME 53 - AFTERNOON SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS,  
UNITED STATES DISTRICT JUDGE, and a jury

APPEARANCES:

For the United States: ANN H. PETALAS, ESQUIRE  
GLENN S. LEON, ESQUIRE  
GIL GUERRERO, ESQUIRE  
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STEVEN CARL TABACKMAN, ESQUIRE  
TIGHE, PATTON, ARMSTRONG,  
TEASDALE, PLLC  
1747 Pennsylvania Avenue, NW  
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Washington, DC 20006  
(202) 454-2811

1 Q. Let me talk to you about the interaction that you saw Wop do  
2 over in the circle. Did you see Wop as he interacted with other  
3 people?

4 A. I don't understand the question.

5 Q. When you saw Wop, what would you notice him doing with the  
6 other guys?

7 MS. WICKS: Objection.

8 THE COURT: Overruled.

9 BY MR. GUERRERO:

10 Q. How did he carry himself?

11 A. I mean, he carried himself -- he had respect. He had  
12 respect amongst his friends, amongst other people in the hood.  
13 He had respect.

14 Q. How about Antwuan Ball? How did he carry himself when you  
15 saw him in the circle?

16 A. Well, he had respect, too. He had the most respect  
17 throughout the hood.

18 Q. What does that mean?

19 A. He was like the man.

20 Q. Let me show you some photographs here. If we can pull up  
21 108.70.

22 If I can ask you to clear the screen. If you can touch  
23 the lower right-hand corner.

24 A. (Witness complies.)

25 Q. Do you see Government's Exhibit 108.70?

# EXHIBIT S

1 | **SUPERIOR COURT**  
**FOR THE DISTRICT OF COLUMBIA**

Grand Jury No. May 2  
555 4th Street, N.W.  
Washington, D.C. 20001

June 18, 2003

12                   The testimony of ANTWAUN BALL was taken in the  
13 presence of a full quorum of the Grand Jury, commencing at  
14 2:55 p.m., before:

16 SETH WAXMAN  
Assistant United States Attorney

FREE STATE REPORTING, INC.  
Court Reporting Depositions  
D.C. Area (301) 261-1902  
Balt. & Annap. (410) 974-0947

1 A. Right.

2 Q. And just to, just to clear this up, is Congress  
3 Park, that part of the city, a fairly tight neighborhood?

4 A. What you mean by tight?

5 Q. In other words, do all the people kind of know  
6 what's going on in the neighborhood generally, or --

7 A. Yeah, that's a heavy neighborhood, yeah.

8 Q. Okay. So you go in the neighborhood. Is that fair?

9 A. Yeah.

10 Q. Okay. And said that Black shot Don?

11 A. Uh-hum.

12 Q. And what leads you to that conclusion? In other  
13 words, was there something specific said to you or was that  
14 what just everybody was saying, or, or what?

15 A. Well, that's, that's what everybody knew.

16 Q. Okay. Is there anything tangible? In other words,  
17 any specific conversation or -- especially with either Don or  
18 Black that leads you to that conclusion?

19 A. What, that Black shot Don?

20 Q. Correct.

21 A. Well, I mean, the reason why in the beginning I knew  
22 he shot him is because the block told me. The block was out  
23 there. And me and Don just shared the understanding, shared  
24 the conversation, he told me that Black shot him, you know,  
25 but he didn't have to, I already knew.

1 was killed?

2 A. It was, it was before you all had put out any type  
3 of warrants or something on him. He wasn't -- well, I didn't  
4 see him around the neighborhood because my time in the  
5 neighborhood is specifically set for things that I have to do.  
6 So I don't get to walk around, and play, and eyeball the town.  
7 But I did see him up Langston Lane where Woodland, same thing,  
8 Langston Lane, Woodland is, when I was driving through I did  
9 see him then.

10 Q. Okay, did you talk to him?

11 A. Yes.

12 Q. And can you tell us about that conversation?

13 A. When I saw him, I pulled up on him and asked him  
14 just because -- just in case my little cousin was lying to me,  
15 I asked him, I said, don't you think you owe me an apology,  
16 you know, to see what he was coming from, because Don knows  
17 that I'm not going to go in front of no -- go and tell no  
18 police what he did, you know. So I was feeling that he would  
19 be comfortable with telling me whether or not he killed Black  
20 or not. So I was like, don't you think you owe me an apology  
21 because Black got shot in my little cousin car. He was like,  
22 apology for what? I was like, come on, man, you know what I'm  
23 talking about man, you know. He was like, man, everybody  
24 think that I shot that dude. I'm happy he did it, for what he  
25 did to me, but I ain't shoot him. He was like --

1 Q. So at that point in time Don denied shooting Black?

2 A. Right.

3 Q. Okay. Aside from that conversation had you ever had  
4 any other conversations with Don since the day Black was  
5 killed?

6 A. No.

7 Q. It was just that one time?

8 A. One -- yes, yes.

9 Q. And I think I may have asked you this, but prior to  
10 the day Black was killed, you've described two conversations  
11 with Don. One where he wasn't coherent enough for you to talk  
12 to him, and another where you discussed his issue with Black.  
13 Were there any other conversations prior to the day Black was  
14 killed that you had with Don about the situation between him  
15 and Don?

16 A. No.

17 Q. And also, the same question with regards to Black.  
18 Aside from the one conversation you had with him in the  
19 halfway house, did you have other conversations with Black  
20 about the situation between him and Don? To the best of your  
21 memory?

22 A. No.

23 Q. No?

24 A. Yes, I did, yes. After Don pulled, after Don pulled  
25 guns out, I spoke to Black and I apologized. I didn't mention

1 this. It was, you know -- but I spoke to Black. And he was  
2 like -- and he, he, he left the halfway house. He said, man,  
3 that man pulled guns out on me, man. I can't go back to the  
4 halfway house, you know, he's going to do this and do that.  
5 And the brother did, so you know, I don't want too much  
6 leaning to the bad things about Black, man, because it just --  
7 it ain't right to me. But yes, he did say that. He left the  
8 halfway house. I asked him not to, you know, no, don't do  
9 that, man. You out here, how am I going to deal with you, if  
10 you leave the halfway house? So he left the halfway house. I  
11 don't know the word for leaving.

12 Q. He escaped?

13 A. Yes, he escaped.

14 Q. Walked away from the halfway house?

15 A. Yes. And was saying that he going to have to do  
16 what he got to do. But I nipped that in the bud too.

17 Q. Okay. And in this conversation with Black where he  
18 told you about Don pulling the guns out on him?

19 A. Yes.

20 Q. And I understand that, you know, Black has since  
21 passed and you don't necessarily talk bad about him, but this  
22 is a Grand Jury investigation, so I just ask that you tell us  
23 exactly what Black said to you, if it meant retaliating, or  
24 doing anything towards Don, just tell us specifically what  
25 Black said. The best of your memory.

1 A. No, I remember.

2 Q. What did, what did Black say he was going to do?

3 A. He said he was going to see him.

4 Q. And what did that mean to you?

5 A. He was going to kill him.

6 Q. Okay. And did he give you a reason for that, or he  
7 just said that?

8 A. Because Don pulled guns out on him.

9 Q. Okay. And so he was going to kill him in  
10 retaliation for that or just for everything that was going on,  
11 or did you not get into all that?

12 A. No, just retaliation for that, because I had him  
13 here for the rest of the stuff. You know, I had Black with me  
14 for shooting Don, you know, so I was dealing with him. You  
15 know, that was -- you know, on his behalf that was done, you  
16 know. But and it stirred back up when Don pulled the guns out  
17 on him.

18 Q. So let me just get this straight. You're saying  
19 that you had handled, at least in your mind, for Black the  
20 1996 shooting. In other words, you had at least calmed Black  
21 down enough that he was okay with it, but that now that Don  
22 had pulled out guns on him again -- not again, but had pulled  
23 out guns on him, this revived the problems for Black. Is that  
24 what you're trying to say?

25 A. Well, Black had no reason to be still pissed. He

1 shot Don.

2 Q. Right.

3 A. I just -- he just -- you know, he was assuring me  
4 that there's no problem with him, you know what I'm saying,  
5 because of course he did the shooting. He was just concerned  
6 about the problem Don had with him.

7 Q. Okay. Now, you described your conversation with  
8 Baby Kai shortly after the shooting as him describing a short  
9 stocky guy?

10 A. Uh-hum.

11 Q. Correct?

12 A. Yes.

13 Q. Okay. At any other time since that time has Kirie  
14 identified somebody as the shooter to you?

15 A. Yes.

16 Q. Okay. Why don't you tell us everything that led up  
17 to that and what's been going on between you and him, Baby  
18 Kai.

19 A. Okay. Now, I'm -- I've spent 28 years in the  
20 streets and during that time we develop this code of silence  
21 thing. So -- well, let me just be straight up with you all.  
22 I was -- I would have been disappointed if, if Don did kill  
23 Black, I would have been disappointed at my little cousin for  
24 saying that he killed him. But I would not be in here risking  
25 him getting purged and more time on his head if that wasn't

1 happening. Now, Baby Kai called my house. I hung up maybe  
2 100 times. And just so happened I answered the phone and  
3 he --

4 Q. Where was Baby Kai calling you from?

5 A. From CTF.

6 Q. From jail?

7 A. Yes.

8 Q. Okay.

9 A. And he said -- I was like, what's up, man? He was  
10 like, man, I know you heard about what was going on, about  
11 him, you know, telling. And I was like -- he was like, I just  
12 wanted to let you know that it's true. I said, so exactly  
13 what is you telling me that, you know what I'm saying, that --  
14 that's true? He was like, you know, I told them Don did it.  
15 That's what he said, you know. Said, Don did it. And I was  
16 like, hold up, man, hold up, man. You told me that a short  
17 stocky dude with a mask killed Black, and now you're telling  
18 me that Don did it. Which one is the truth? And his response  
19 was, man, Don did it. So you know, I mean, I still -- me  
20 knowing my little cousin, man, him and my little brother is  
21 exactly the same. They grew up together. And I know when my  
22 little brother and my little cuz is lying to me. When I said,  
23 do not lie to me, man, who killed him, man, who pulled the  
24 trigger? And he said a short, stocky dude, that was it.  
25 There was no other reason for me to ask any other questions.

1 Q. Okay. So that last part you were discussing, that's  
2 the conversation you had had with him shortly after the  
3 shooting. Is that right?

4 A. Yes.

5 Q. Okay. Now, what are you feeling about Kirie from  
6 the time last fall to now? In other words, what's going on  
7 with him and his situation and the things that he's told you?  
8 In other words, identifying a short, stocky guy at one point  
9 and identifying Don at another point?

10 A. Well, I'm -- once again, you good too. I'm, I'm a  
11 little -- I'm a lot uncomfortable with my little cousin. Just  
12 that the things that he's -- it's not good, and you know,  
13 we're not, not saying that we're angels or nothing. We was  
14 brought up in certain situations now. The things that, that  
15 he's done to benefit hisself, which was the streets, you know,  
16 you know, shouldn't be -- shouldn't have him in a situation  
17 where as though when he get caught for doing what he benefited  
18 from'in the streets to, to act -- to involve somebody else in  
19 his way of getting out of jail, you know. so yes, I'm  
20 extremely disturbed and I would be -- to be honest with you, I  
21 would be disturbed still if Don did kill Black and he told the  
22 police. That's just -- you know, and I'm not proud of it, but  
23 that's just how, you know, how I was brought up.

24 Q. Let me break that down. You described something  
25 called, like a code of silence. What does that mean to you?

1 A. No telling.

2 Q. In other words, you don't deal with the police, you  
3 don't deal with the prosecutors?

4 A. Exactly.

5 Q. You handle your own business in the street yourself?

6 A. I don't know where you got that from but --

7 Q. All right, well, correct me as I'm saying these  
8 things. Please tell me when I'm wrong.

9 A. I'm correcting you. No, I didn't say that. I'm  
10 saying that you do not -- and then the dealing was on him. It  
11 wasn't his problem. So you know --

12 Q. Okay. And I think the Grand Jury might be a little  
13 bit in a vacuum here, so let me just go through with what  
14 procedure was going on --

15 A. Yes.

16 Q. -- and maybe that will help out. Did you -- are you  
17 familiar with the fact that Kirie Kilabrew (ph.) picked up a  
18 couple of unrelated drug charges --

19 A. Yes.

20 Q. -- sometime last summer?

21 A. Yes.

22 Q. And do you know if those are still pending?

23 A. Yes.

24 Q. Do you know where Kirie Kilabrew is locked up right  
25 now?

1 Q. Being a snitch?

2 A. Yeah. When you say snitch, man, when you snitch,  
3 you snitching on something that happened, so we can't -- we  
4 got to be careful with calling him a snitch because he lied.

5 Q. In other words, there's a difference between being  
6 hot and being a snitch?

7 A. No.

8 Q. Okay. Well, I'm sorry, explain --

9 A. Snitch and hot is the same thing.

10 Q. Okay.

11 A. And when you lie, we haven't put a word together for  
12 that yet. We just call him hot. I'm not -- I'm not trying to  
13 be funny or anything but --

14 Q. Oh, I understand.

15 GRAND JUROR. We ain't put no word --

16 BY MR. WAXMAN:

17 Q. All right.

18 A. You want me to finish?

19 Q. Yes, I'm sorry, go ahead.

20 A. He told Geeka that, man, this ain't me, man, you  
21 know, I ain't going like this, man. I told them peoples Don  
22 did this, that and the other. I'm over here with all these  
23 hot dudes, man. This ain't me. Basically, the Judge wouldn't  
24 do him no favor, so now he's worrying about his name. So now  
25 he's ready to -- what's the word for it? To take back his

1 well, I know you've described, based on what you've heard, and  
2 that people have told you, that you heard that a short stocky  
3 person with a mask on was the shooter. You heard that one  
4 time. Correct?

5 A. Yes.

6 Q. And you've also heard at some other time that Don  
7 was the shooter. Is that correct?

8 A. Yes.

9 Q. Do you have any information that would help this  
10 Grand Jury either pointing them towards either one of those  
11 two people or a third person, besides what we've discussed  
12 here today?

13 A. Well, I maybe can give the Jury 130 people that may  
14 have killed Black because although that's my man, and he's  
15 passed, and I don't feel bad with saying this, man, the man  
16 was an armed robber, before he went in. When he came home, he  
17 was a total different person. You know, to my knowledge. But  
18 before he went in, man, he was, you know, he was just doing  
19 too much, man. He was a knucklehead.

20 Q. So is it your understanding that Black made a lot of  
21 enemies out there?

22 A. Definitely. But now, to be honest with the Jury,  
23 not too many people going to come in our neighborhood and, you  
24 know, and do nothing like that, you know, so just to be honest  
25 with the Jury.

# EXHIBIT T

United States of America v.  
Kenneth Simmons, et alCR 00-157 &  
CR 02-045February 18, 2004  
Volume 72

Page 1

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	:	CR Number 00-157
	:	Group 2A
Government,	:	CR Number 02-045
	:	
v.	:	Washington, D.C.
	:	Wednesday, February 18, 2004
KENNETH SIMMONS,	:	9:43 a.m.
RONALD ALFRED, JAMES ALFRED,	:	
FRANKLIN SEEGERS,	:	
DEON OLIVER, KEITH McGILL,	:	
	:	
Defendants.	:	
	:	

----- x -----

DAY 72 - AM SESSION  
TRANSCRIPT OF JURY TRIAL  
BEFORE THE HONORABLE ROYCE C. LAMBERTH  
UNITED STATES DISTRICT JUDGE, and a jury

## APPEARANCES:

For the Government:	FLORENCE PAN, ESQUIRE GLENN KIRSCHNER, ESQUIRE ARVIND LAL, ESQUIRE ASSISTANT UNITED STATES ATTORNEYS U.S. ATTORNEY'S OFFICE 555-4th Street, N.W. Washington, D.C. 20001 Ms. Pan - 202-353-3706 florence.pan@usdoj.gov Mr. Kirschner - 202-514-7064 glenn.l.kirschner@usdoj.gov Mr. Lal - 202-353-8833 arvind.lal@usdoj.gov
For Defendant Kenneth Simmons:	JOSEPH E. BESHOURI, ESQUIRE 419 Seventh Street, N.W. Suite 201 Washington, D.C. 20004 202-842-0420 jbeshouri@aol.com

Pages 1 through 119

OFFICIAL COURT REPORTER

THERESA M. SORENSEN,

<p style="text-align: right;">Page 94</p> <p>1 Q. Do you recognize this person?      2 A. Yes, ma'am.      3 Q. Who is that?      4 A. Moe.      5 Q. And do you know Moe's last name?      6 A. Brown.      7 Q. You know him as Moe Brown?      8 A. Yes, ma'am.      9 Q. Where do you know him from?      10 A. Fifteenth Place.      11 Q. Okay. So far as you know, so far as you could tell      12 from your friendship with Keith McGill, did Keith McGill      13 ever hang around with him?      14 A. I wouldn't say hang around. They was from the same      15 community, but not hang with.      16 Q. Okay. Did you ever see him riding around with Moe      17 Brown?      18 A. Maybe when we played them in basketball, you know, to      19 come down and -- maybe, you know, but I can't really say yes      20 and I can't say no.      21 Q. How many times did you ever see Moe Brown and Keith      22 McGill together, would you say?      23 A. As just those two?      24 Q. Uh-huh.      25 A. Oh, no, that's not what you see. You're not going to</p>	<p style="text-align: right;">Page 96</p> <p>1 Q. Is that a true statement? If someone made that      2 statement, would it be true?      3 A. No, ma'am.      4 MR. LAL: Objection.      5 THE COURT: Sustained.      6 MS. D'ANTUONO: All right. I will reformulate my      7 question.      8 BY MS. D'ANTUONO:      9 Q. Did you ever see that?      10 A. No, ma'am.      11 Q. All right. And are you in Congress Park with      12 sufficient frequency that if it had occurred, --      13 MR. LAL: Objection.      14 BY MS. D'ANTUONO:      15 Q. -- you believe you would have seen it?      16 THE COURT: Sustained.      17 BY MS. D'ANTUONO:      18 Q. Did Mr. McGill drive new cars?      19 A. It depends on what you call new.      20 Q. Okay, tell us. As in late model. If it's 1996,      21 would he be driving a '96?      22 MR. LAL: Objection to the leading.      23 THE COURT: Sustained.      24 BY MS. D'ANTUONO:      25 Q. I'm just trying to understand what your answer is.</p>
<p style="text-align: right;">Page 95</p> <p>1 see just him and Keith. They didn't hang together; they      2 just was around the same neighborhood.      3 Q. Okay. And after Mr. McGill came home, were you still      4 living in Congress Park?      5 A. Not living. Hanging.      6 Q. Okay. And are you still there --      7 A. Yes, ma'am.      8 Q. -- most of the day today?      9 A. Yes, ma'am.      10 Q. As in right up to today?      11 A. Yes, ma'am.      12 Q. Did you ever see Keith McGill selling drugs at      13 Congress Park?      14 A. No. That's not -- that's our -- that's where we      15 from, Congress Park.      16 Q. And did you -- in your time see others selling drugs      17 there?      18 A. At Congress Park?      19 Q. Sure.      20 A. Yes, ma'am.      21 Q. And Keith McGill was not one of them?      22 A. No, ma'am.      23 Q. Did you ever know Keith McGill to serve every one in      24 Congress Park?      25 A. No, ma'am.</p>	<p style="text-align: right;">Page 97</p> <p>1 THE COURT: Well, give him a chance to answer it.      2 MS. D'ANTUONO: Okay.      3 THE WITNESS: No, ma'am. If -- like Keith had a      4 Maxima, but it wasn't the up-to-date Maxima. He'll get an      5 older date and try to make it look up-to-date, so -- and      6 that ain't -- he did that with a truck. Of course, it      7 didn't work with the truck.      8 BY MS. D'ANTUONO:      9 Q. Okay. What truck do you mean?      10 A. The Jeep.      11 Q. Okay. Did you ever know him to have a Bronco?      12 A. A brown coat? Oh, a Bronco.      13 Q. You're as bad as I am. Bronco.      14 A. Yes, ma'am.      15 Q. Okay. Do you -- well, was that a brand new vehicle?      16 A. Nah, and that also didn't look like a brand new      17 vehicle. I mean, he made a few adjustments to it, but it      18 didn't work. It didn't improve the look.      19 Q. Okay. Do you happen to know what year it was?      20 A. No, ma'am.      21 Q. All right.      22 A. We're talking about the Bronco or the Wrangler?      23 Q. The Bronco.      24 A. Oh, no, ma'am; I didn't know.      25 Q. Do you remember what color it was?</p>

25 (Pages 94 to 97)

Page 1

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, . CR Number 00-157  
. Group 2A  
Government, . CR Number 02-045  
. .  
v. . Washington, D.C.  
. February 18, 2004  
KENNETH SIMMONS, . 2:00 p.m.  
RONALD ALFRED, JAMES ALFRED .  
FRANKLIN SEEGERS,  
DEON OLIVER, KEITH MCGILL,  
. .  
Defendants. .  
. . . . .

DAY 71, AFTERNOON SESSION  
TRANSCRIPT OF TRIAL  
BEFORE THE HONORABLE ROYCE C. LAMBERTH  
UNITED STATES DISTRICT JUDGE

## APPEARANCES:

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SUSAN PAGE TYNER, OFFICIAL COURT REPORTER

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1 Q. Okay. And at this particular time -- and I am talking  
 2 about when Keith came home now --  
 3 A. Um-hum.  
 4 Q. -- from Maryland.  
 5 A. Um-hum.  
 6 Q. Did you know Keith to be involved in any drug activity  
 7 whatsoever?  
 8 A. No, ma'am.  
 9 Q. Did Keith McGill ever express to you any sentiments  
 10 about illegal activity once he came home?  
 11 MR. LAL: Objection.  
 12 THE COURT: Sustained.  
 13 MS. D'ANTUONO: State of mind, Judge.  
 14 MR. LAL: Objection.  
 15 THE COURT: Sustained.  
 16 BY MS. D'ANTUONO:  
 17 Q. If you know, how did Keith feel about ever going back to  
 18 jail?  
 19 MR. LAL: Objection.  
 20 THE COURT: Sustained.  
 21 BY MS. D'ANTUONO:  
 22 Q. Did Keith McGill ever express to you any fear about  
 23 going back to jail?  
 24 MR. LAL: Objection.  
 25 THE COURT: Sustained.

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1 that at this particular time when he had come home from  
 2 Maryland?  
 3 A. Nah. Keith -- I really -- if Keith sought I was, you  
 4 know, still a knucklehead, I don't think he would have been  
 5 nowhere around me. So nah, he was away from all of that. I  
 6 mean just -- he wasn't no where near none of that. Too  
 7 scared. And I don't mean that in a disrespectful way to  
 8 say a brother's scared, but he wasn't trying to go back to  
 9 jail.  
 10 Q. Did you ever know Keith McGill to deal in counterfeit  
 11 money?  
 12 A. No, ma'am. We're from Washington. I don't -- you know,  
 13 that's T.V. No, ma'am.  
 14 Q. Do you know whether or not Keith ever gambled, Keith  
 15 McGill?  
 16 A. Occasionally. We got taught how to shoot celo.  
 17 Q. I don't know what that is.  
 18 A. Three dices. We used three dices.  
 19 Q. And do you know how to spell it?  
 20 A. You got me looking like I don't know how to spell now.  
 21 No, ma'am, I don't know how to spell it.  
 22 Q. Well, we will just spell it c-e-l-o, whether that is  
 23 right or wrong, celo, okay.  
 24 A. Yes, ma'am.  
 25 Q. And celo is three dice you said?

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1 BY MS. D'ANTUONO:  
 2 Q. From the moment Keith McGill came home from jail until  
 3 the time he was arrested in this case, did you ever see him  
 4 or know him to participate in any illegal activity?  
 5 A. No. When he first came home he was entirely too  
 6 scared.  
 7 Q. Okay. And if you know, who got Keith McGill started in  
 8 a profession and occupation when he came home?  
 9 A. I think it was his sister. I think I remember Keith  
 10 telling me something about Trina helping him out as far as  
 11 the ice cream truck. I don't know about until the ice cream  
 12 truck.  
 13 Q. Did you ever know Keith McGill to go to Kevin Gray to  
 14 get back on his feet?  
 15 A. Nah.  
 16 Q. Did you ever know him to go to Frank Howard to get back  
 17 on his feet?  
 18 A. Nah. There's nothing that Frank Howard or Kevin Gray  
 19 can do for Keith when he came home.  
 20 Q. And did you ever know him to go to Quincy Thomas to get  
 21 back on his feet?  
 22 A. Quincy is another Frog. No, ma'am, to answer your  
 23 question. No, ma'am.  
 24 Q. Was Keith McGill, so far as you could see it, or  
 25 perceive it, or know it, close enough to any of them to do

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1 A. Yes, ma'am.  
 2 Q. Okay.  
 3 A. And it was just fun. We learned it, and it was, you  
 4 know, something to do. Everybody know how to shoot two dice,  
 5 so even people that don't gamble would shoot celo. It was  
 6 something new, you know, and I liked it personally.  
 7 Q. Did you ever know him to gamble at a high level?  
 8 A. No, ma'am. With what?  
 9 Q. Did you ever smack Keith McGill?  
 10 A. No, ma'am.  
 11 Q. Did you ever have any reason to smack Keith McGill?  
 12 A. None at all.  
 13 Q. Did you and Keith McGill ever have any beefs, or  
 14 controversies, or problems that would cause you to smack  
 15 him?  
 16 A. No, ma'am.  
 17 Q. Did you ever have any beefs, or controversies, or  
 18 problems that would cause him to want to kill you?  
 19 A. No, ma'am.  
 20 Q. Did you ever have any beefs, or controversies, or  
 21 problems that would cause him to want to hire someone to kill  
 22 you?  
 23 A. No, ma'am.  
 24 MS. D'ANTUONO: Could we see OV without the name,  
 25 please.

5 (Pages 14 to 17)

et al

1 Q. Do you recognize this person?  
 2 A. Yes, ma'am.  
 3 Q. Who is that?  
 4 A. Moe.  
 5 Q. And do you know Moe's last name?  
 6 A. Brown.  
 7 Q. You know him as Moe Brown?  
 8 A. Yes, ma'am.  
 9 Q. Where do you know him from?  
 10 A. Fifteenth Place.  
 11 Q. Okay. So far as you know, so far as you could tell  
 12 from your friendship with Keith McGill, did Keith McGill  
 13 ever hang around with him?  
 14 A. I wouldn't say hang around. They was from the same  
 15 community, but not hang with.  
 16 Q. Okay. Did you ever see him riding around with Moe  
 17 Brown?  
 18 A. Maybe when we played them in basketball, you know, to  
 19 come down and -- maybe, you know, but I can't really say yes  
 20 and I can't say no.  
 21 Q. How many times did you ever see Moe Brown and Keith  
 22 McGill together, would you say?  
 23 A. As just those two?  
 24 Q. Uh-huh.  
 25 A. Oh, no, that's not what you see. You're not going to

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1 Q. Is that a true statement? If someone made that  
 2 statement, would it be true?  
 3 A. No, ma'am.  
 4 MR. LAL: Objection.  
 5 THE COURT: Sustained.  
 6 MS. D'ANTUONO: All right. I will reformulate my  
 7 question.  
 8 BY MS. D'ANTUONO:  
 9 Q. Did you ever see that?  
 10 A. No, ma'am.  
 11 Q. All right. And are you in Congress Park with  
 12 sufficient frequency that if it had occurred, --  
 13 MR. LAL: Objection.  
 14 BY MS. D'ANTUONO:  
 15 Q. -- you believe you would have seen it?  
 16 THE COURT: Sustained.  
 17 BY MS. D'ANTUONO:  
 18 Q. Did Mr. McGill drive new cars?  
 19 A. It depends on what you call new.  
 20 Q. Okay, tell us. As in late model. If it's 1996,  
 21 would he be driving a '96?  
 22 MR. LAL: Objection to the leading.  
 23 THE COURT: Sustained.  
 24 BY MS. D'ANTUONO:  
 25 Q. I'm just trying to understand what your answer is.

1 see just him and Keith. They didn't hang together; they  
 2 just was around the same neighborhood.  
 3 Q. Okay. And after Mr. McGill came home, were you still  
 4 living in Congress Park?  
 5 A. Not living. Hanging.  
 6 Q. Okay. And are you still there --  
 7 A. Yes, ma'am.  
 8 Q. -- most of the day today?  
 9 A. Yes, ma'am.  
 10 Q. As in right up to today?  
 11 A. Yes, ma'am.  
 12 Q. Did you ever see Keith McGill selling drugs at  
 13 Congress Park?  
 14 A. No. That's not -- that's our -- that's where we  
 15 from, Congress Park.  
 16 Q. And did you -- in your time see others selling drugs  
 17 there?  
 18 A. At Congress Park?  
 19 Q. Sure.  
 20 A. Yes, ma'am.  
 21 Q. And Keith McGill was not one of them?  
 22 A. No, ma'am.  
 23 Q. Did you ever know Keith McGill to serve every one in  
 24 Congress Park?  
 25 A. No, ma'am.

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1 THE COURT: Well, give him a chance to answer it.  
 2 MS. D'ANTUONO: Okay.  
 3 THE WITNESS: No, ma'am. If -- like Keith had a  
 4 Maxima, but it wasn't the up-to-date Maxima. He'll get an  
 5 older date and try to make it look up-to-date, so -- and  
 6 that ain't -- he did that with a truck. Of course, it  
 7 didn't work with the truck.  
 8 BY MS. D'ANTUONO:  
 9 Q. Okay. What truck do you mean?  
 10 A. The Jeep.  
 11 Q. Okay. Did you ever know him to have a Bronco?  
 12 A. A brown coat? Oh, a Bronco.  
 13 Q. You're as bad as I am. Bronco.  
 14 A. Yes, ma'am.  
 15 Q. Okay. Do you -- well, was that a brand new vehicle?  
 16 A. Nah, and that also didn't look like a brand new  
 17 vehicle. I mean, he made a few adjustments to it, but it  
 18 didn't work. It didn't improve the look.  
 19 Q. Okay. Do you happen to know what year it was?  
 20 A. No, ma'am.  
 21 Q. All right.  
 22 A. We're talking about the Bronco or the Wrangler?  
 23 Q. The Bronco.  
 24 A. Oh, no, ma'am; I didn't know.  
 25 Q. Do you remember what color it was?

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Kenneth Simmons, et al

CR 00-157 &  
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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, : CR Number 00-157  
: Group 2A  
Government, : CR Number 02-045  
:  
v. : Washington, D.C.  
: Thursday, February 19, 2004  
KENNETH SIMMONS, : 9:41 a.m.  
RONALD ALFRED, JAMES ALFRED, :  
FRANKLIN SEEGERS, :  
DEON OLIVER, KEITH McGILL, :  
:  
Defendants. :  
:  
- - - - - x

DAY 73 - AM SESSION  
TRANSCRIPT OF JURY TRIAL  
BEFORE THE HONORABLE ROYCE C. LAMBERTH  
UNITED STATES DISTRICT JUDGE, and a jury

APPEARANCES:

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OFFICIAL COURT REPORTER

THERESA M. SORENSEN,

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<p style="text-align: right;">Page 62</p> <p>1 Q. People -- part of being a human being, people lie to 2 each other, correct? 3 A. I appreciate you saying that. Yes, sir. 4 Q. All right. So the word on the street doesn't 5 necessarily come with a stamp of credibility. 6 A. I agree, yes, sir. 7 Q. Sir, we have talked about a group of different -- 8 lots of names of individuals have been mentioned throughout 9 the course of your testimony, and you have talked about 10 yourself having engaged in crime and other people having 11 engaged in crime. Have you ever testified against any of 12 those individuals? 13 A. No, sir. 14 Q. Have you ever broken your code of silence to provide 15 truthful information to the police or to the prosecutors to 16 bring the wrongdoers in our society to justice? 17 A. Well, the prosecutors or the police never called me 18 in to bring anything on the wrongdoers of society. 19 Q. Did you ever pick up the phone and say, "I have 20 information about this crime"? Did you ever do that? 21 A. No, sir. 22 Q. Part of -- strike that. 23 Certainly, sir, with respect -- you testified 24 previously that you never saw Keith McGill selling on 15th 25 Place or in Congress Park.</p>	<p style="text-align: right;">Page 64</p> <p>1 Alabama, Savannah -- what's the street below Savannah? 2 A. What's that? Fourteenth? Fourteenth Place? 3 Q. No, 14th Place runs -- 4 A. Oh, you're talking about Mississippi. 5 Q. Mississippi. 6 A. Mississippi Avenue. 7 Q. And Congress Park runs from -- pretty much from 8 Alabama down to Mississippi, right? 9 A. Well, you have to make a left off of Alabama, and 10 then you're in Congress Park, yes. 11 Q. Exactly. Exactly. But I'm talking about the 12 north-south border. And then Congress Park runs from 14th 13 Place or maybe up to 15th Place over to what? Eleventh or 14 12th? 15 A. Fifteenth Street, not Place. 16 Q. Fifteenth Street. My apologies. 17 A. Yes, sir. 18 Q. And so there are parts of -- Congress Park is a big 19 area and you wouldn't necessarily know who was outside 20 everywhere in Congress Park; fair to say? 21 A. Congress Park is a 471-unit apartment complex, and 22 yes, sir, I will. It's only three places that people be -- 23 the circle, the alley, and 14th -- and Keith didn't hang 24 anywhere on either one of them. 25 Q. The alley meaning the boat alley?</p>
<p style="text-align: right;">Page 63</p> <p>1 A. Yes, but I can assume that in his younger days that, 2 you know, because of everybody. Yes, sir, I testified to 3 that. 4 Q. Certainly, though -- 5 MS. D'ANTUONO: I object to the compound question. 6 I object to its compound nature. 7 THE COURT: You can break it down. 8 BY MR. LAL: 9 Q. My question was that -- my question initially was 10 that you had never seen Keith McGill selling on 15th Place, 11 and if I understand your testimony, or, excuse me, your 12 answer, you indicated that you had not, but you were 13 assuming that he was. 14 A. Yes, sir. You're right. 15 Q. Does that same hold true for Congress Park? 16 A. As far as Keith in Congress Park? 17 Q. Yes, sir. 18 A. No, sir. He has never sold at Congress Park. 19 Q. At least that you observed. 20 A. Well, no. He had to hang in Congress Park in order 21 to sell in Congress Park, and he didn't hang in Congress 22 Park. 23 Q. Congress Park, as we talked earlier this afternoon, 24 extends from approximately Alabama Avenue down a couple 25 blocks past Savannah -- what's the street below Savannah?</p>	<p style="text-align: right;">Page 65</p> <p>1 A. You've been around there before. 2 (Laughter.) 3 THE WITNESS: Yes, sir. But I wasn't speaking -- 4 well, that's the whole alley, yes, sir. 5 BY MR. LAL: 6 Q. Okay. Getting back to -- certainly during your, to 7 use, and I don't mean any disrespect, -- 8 A. Yes, sir. 9 Q. -- but to use your phrase, your knucklehead days, 10 certainly during that time period, had you seen Keith McGill 11 telling drugs, you wouldn't have told the police about it. 12 A. Not during them days, no, sir. 13 Q. And today, if you had seen Keith McGill out there, 14 you wouldn't be telling us that. 15 A. If I was in here, if the government had asked me to 16 come in here, subpoenaed me to come here, I would tell the 17 truth. Of course, I must admit that I would have tried to 18 get out of coming in here, but I would have told the truth, 19 yes, sir. 20 Q. You indicated that you had never had a beef or a 21 dispute with Keith McGill out on the street. 22 A. Never. 23 Q. You would agree, however, that friends -- people who 24 are friends on the street can, in fact, develop antagonisms 25 towards each other.</p>

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1 know, as a defense tactic to him not being, you know, like  
2 that, but, you know.

3 Q. You would agree that that kind of a rumor on an  
4 individual is something that's serious in the streets.

5 A. Yes, sir.

6 Q. In fact, the mere existence of the rumor, whether  
7 it's true or not, is sufficient to get the person named in  
8 the rumor killed.

9 A. That's not the way the streets work, no, sir. People  
10 don't want no part of another person's problem. What  
11 they'll do is just not deal with them at all.

12 Q. So is it your testimony, then, that an individual who  
13 may be suspected of cooperating with the police, and assume  
14 for the purposes of this question, sir, that we're talking  
15 about criminal activity, --

16 A. Yes, sir.

17 Q. -- that the people who he was involved with in that  
18 criminal activity would just ignore him and not try to do  
19 anything to him on the streets? Is that your testimony?

20 A. The first steps would be to get away from him, never,  
21 ever be around him or anything. Now, some people have crazy  
22 ways of thinking, you know? But if this man is known as  
23 hot, then there's nothing -- if he's hot and from a certain  
24 -- and being around a certain group, then that's group --  
25 there's nothing that can happen to Keith because that group

1 MR. LAL: Thank you, Your Honor.

2 BY MR. LAL:

3 Q. Mr. Ball, before we get back to the point we were  
4 discussing, we were talking about -- and again, I'll use  
5 your phrase -- your knucklehead days, --

6 A. Yes.

7 Q. -- when did those days stop, sir?

8 A. I'd say maybe a little over five years, maybe six  
9 years.

10 Q. We're in February 2004, so 1999, 1998?

11 MR. DANIEL: Objection, Your Honor.

12 THE COURT: Overruled.

13 THE WITNESS: Five or six years, sir.

14 BY MR. LAL:

15 Q. Okay. You would agree that five or six years ago  
16 would be 1988, 1999, that ball park?

17 A. Ninety-nine.

18 Q. Okay. We were talking before the break about the --  
19 about the fact that the discussion of whether somebody was  
20 hot would be a serious subject that one would only discuss  
21 with close friends. I would like you to listen, sir, to  
22 what is MW3, the last call.

23 MS. D'ANTUONO: Judge, may we approach for a  
24 second?

25 THE COURT: Yes.

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1 is getting charged with that. If anything happened to him,  
2 then that group will get charged with that. So what they  
3 would do is push him away, back up off him, no conversation  
4 no anything.

5 Q. Keith McGill, however, did not, I believe you  
6 indicated a few moments ago, discuss this with you in  
7 specifics other than perhaps mentioning it to you.

8 A. Not specifics, no, sir.

9 Q. You would agree that this is, frankly, a sufficiently  
10 serious matter that if it was going to be discussed, it  
11 would be discussed with somebody who was a close friend.

12 A. Well, it wasn't that serious to Keith because he knew  
13 who he was and he knew, you know, that that was false.

14 Q. Whether he knew it was false or not, you would agree  
15 that it is a sufficiently serious subject that it warrants  
16 discussion with people who you can trust.

17 A. Yes.

18 (Brief pause in proceedings.)

19 MR. LAL: Your Honor, I'm trying to figure out  
20 whether I am two minutes away or ten minutes away. If I  
21 could take a --

22 THE COURT: We will take a recess and maybe you  
23 will be two minutes away.

24 (Whereupon, a short recess was taken.)

25 THE COURT: All right. Mr. Lal, you may proceed.

1 (Whereupon, a discussion was held at the bench on the  
2 record.)

3 THE COURT: What's the question you're going to  
4 ask?

5 MR. LAL: I'm going to have him listen to --

6 THE COURT: I know. What are you going to ask?

7 MR. LAL: Just to confirm that Keith was  
8 discussing the subject with Frank and with Melvin Wallace.

9 THE COURT: He who?

10 MR. LAL: That Keith McGill -- I'm going to get  
11 him to identify the voices, and that Keith brings up the  
12 subject with Melvin and with Frank.

13 THE COURT: He's not a party to the call.

14 MR. LAL: He is not a party.

15 THE COURT: The objection is sustained.

16 MR. LAL: Okay.

17 (End of discussion at the bench.)

18 THE COURT: You don't need the headsets.

19 MR. LAL: Your Honor, that's all the questions I  
20 have. Thank you.

21 CROSS-EXAMINATION

22 BY MR. DANIEL:

23 Q. Good morning, Mr. Ball. I'm Idus Daniel, I represent  
24 Ronald Alfred.

25 A. Good morning.

19 (Pages 70 to 73)

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<p style="text-align: right;">Page 86</p> <p>1 A. Yes.</p> <p>2 Q. When were you speaking of? What were you speaking of 3 at that time?</p> <p>4 A. Well, I have shaken his hand more than once, but when 5 I was speaking of that time was when -- this was after my 6 little brother had died. Up Crystal Skating Rink at the 7 light in traffic, he jumped out of his car and came and said 8 -- but I seen him, and before he got to me, I was like, "I 9 already know, man. I already know." He was like, "Man, you 10 do know that's some bull," you know.</p> <p>11 Q. I don't want you telling what he said.</p> <p>12 A. Oh.</p> <p>13 Q. What did you say?</p> <p>14 A. You have to -- you have to, you know, tell me what I 15 can and can't say. I don't want to be disrespectful.</p> <p>16 Q. Well, I'm asking you what you said when you saw Mr. 17 Alfred on this occasion.</p> <p>18 A. Well, it was traffic, so I was like, "I already know, 19 man. You ain't even got to get into that, man. I already 20 know."</p> <p>21 Q. And what is it that you already knew?</p> <p>22 MR. LAL: Objection.</p> <p>23 THE COURT: Sustained.</p> <p>24 BY MR. DANIEL:</p> <p>25 Q. Were you riding around with Kevin Gray and others</p>	<p style="text-align: right;">Page 88</p> <p>1 A. Yes, sir.</p> <p>2 Q. -- to get someone else to testify?</p> <p>3 A. Well, if I say that, I wouldn't be -- that wouldn't 4 be completely the truth because I don't know if that's why 5 they're doing it, to get other people to testify, but, you 6 know, I would think they're doing it just to put it out 7 there because they don't know if this person will testify, 8 they just want it out there for the next person to get in 9 trouble, and they say that, "Well, you know, Antwaun is 10 testifying for us," you know.</p> <p>11 Q. Mr. Lal mentioned in his cross-examination that when 12 someone comes to court and testifies, it gives it a stamp of 13 credibility; is that correct? Do you remember that?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Does that mean that if they were here, that they 16 would tell the truth in court?</p> <p>17 MR. LAL: Objection.</p> <p>18 THE COURT: Sustained.</p> <p>19 BY MR. DANIEL:</p> <p>20 Q. Well, you mentioned -- you had mentioned something 21 about your mom and her testimony, right?</p> <p>22 A. Yes, sir.</p> <p>23 Q. And that her testimony conflicts with your testimony; 24 is that correct?</p> <p>25 A. Yes, sir.</p>
<p style="text-align: right;">Page 87</p> <p>1 trying to do something to Mr. Alfred after Kairi's death?</p> <p>2 A. No, sir.</p> <p>3 Q. Did you ever ride around with Kevin Gray at any time 4 looking for Ronald Alfred?</p> <p>5 A. No, sir.</p> <p>6 Q. How about Froggy? Ride around with Froggy?</p> <p>7 A. No, sir. Well, I rode with Froggy before, but not 8 looking for Boo.</p> <p>9 Q. You also testified about the word "Omerta."</p> <p>10 A. Yes, sir.</p> <p>11 Q. And there was a question about it's dangerous for 12 people to come forward? Do you remember that?</p> <p>13 A. Yes, sir.</p> <p>14 Q. And also you made some mention of the police, how 15 they come to the neighborhoods and it puts people in danger?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Can you explain that?</p> <p>18 A. They ride through our neighborhood and in order to 19 get another witness, they tell them, the person that they're 20 talking to that, "Well, you know -- say for instance me -- 21 "You know Antwaun is, you know, cooperating with us," and 22 then that person go spread it everywhere.</p> <p>23 Q. And when you say that, when you say they -- that the 24 police may say that you are cooperating, for instance, that 25 would be a falsehood --</p>	<p style="text-align: right;">Page 89</p> <p>1 Q. Do you know why there is a conflict in your 2 testimony?</p> <p>3 A. Yes, I do.</p> <p>4 Q. Can you tell us that?</p> <p>5 A. My moms had got into -- since she been home, she got 6 into a little trouble and they threatened to take her 7 freedom and also my freedom, you know, and this is what my 8 moms told me, and, you know, she love us, you know? Of 9 course, I don't agree with it, but, you know, she did what 10 she had to do, I guess, for her kids. And that question 11 also made me uncomfortable. Remember, this is my mother, 12 man.</p> <p>13 Q. You mentioned that you at one time were selling 14 shake. You said that was like five or six years ago?</p> <p>15 A. No. That was longer than that.</p> <p>16 Q. Longer than that?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. There was some mention of whether -- the most 19 recent question asked by Mr. Lal was how long ago when you 20 stopped dealing.</p> <p>21 A. Right.</p> <p>22 Q. You said like five or six years ago?</p> <p>23 A. Yes, sir.</p> <p>24 Q. It could have been six, could have been seven, maybe; 25 do you know exactly?</p>

23 (Pages 86 to 89)

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Kenneth Simmons, et al

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1 A. Well, I would say it's closer to six.

2 Q. Six years?

3 A. Five, six years, yes, sir.

4 MR. DANIEL: The Court's indulgence, Your Honor.

5 (Brief pause in proceedings.)

6 MR. DANIEL: I have nothing further, Judge.

7 THE COURT: Any other counsel?

8 MR. WOLL: Yes, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. WOLL:

11 Q. Good morning, Mr. Ball.

12 A. Good morning.

13 Q. My name is David Woll and I represent James Alfred. I believe you knew Bam; is that correct?

14 A. Yes, sir.

15 Q. And he's the gentleman seated at the far right at counsel table there. Is that the person you know as Bam?

16 A. Yes, sir.

17 Q. Is it my understanding on cross-examination that you knew him, but you didn't really know him very well? Is that a fair statement?

18 A. Yes, sir.

19 Q. And where was it that you would sometimes see him; do you recall?

20 A. Crystal Skating Rink.

1 Q. Mr. Ball, I'm not going to ask you too much. I just want to get your explanation to a couple of the yes and nos that you gave.

2 You wore a shirt yesterday and you brought it with you today.

3 A. Yes, sir.

4 Q. Okay. Explain what you have to explain about that shirt, please?

5 A. Well, this shirt really -- I'm patronizing a guy that came up with a good idea to give us a voice because we have no voice. If we voice our opinion, we get, you know, charged with all types of craziness. So, I mean -- and the shirt, I respect, and I have -- the reason why I wore this, I'm not an unintelligent person, and that's the reason why I wore this shirt, because of the impression that they think we have -- that they think we have on people that testify in court cases, and it's not that, you know, we just can't fathom a person testifying; it's just that, like I said to the prosecutor, that people that survive or for half of their life do the wrong thing, you know, and then when get caught for doing that thing decide that they want to come in and lie or what have you, with all due respect to the prosecution or whatever, lie and do whatever they have to do to get out the situation that them themselves put theirself into. I'm a Muslim and I believe that no man bears the

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Page 93

1 Q. Okay.

2 A. Or just passing by or something, you know.

3 Q. Now, you were asked testimony -- or you were asked questions on cross-examination by Mr. Lal concerning James Alfred and his alleged involvement in your brother's killing, correct?

4 A. Yes.

5 Q. Did you have any information of that, anything as he stated to you or asked you in reference to James Alfred?

6 A. Could you --

7 Q. Yes. Okay. I believe his question was that James Alfred -- did you know that James Alfred was allegedly or was involved in the killing of your brother Carey Ball. Do you remember that question?

8 A. Kairi. And no, sir. Yes, sir, I remember the question.

9 Q. And to your knowledge, did you have any information or knowledge that he was involved in it?

10 A. No, sir.

11 MR. WOLL: Thank you, Your Honor. That's all the questions I have.

12 THE COURT: All right.

13 Ms. D'Antuono? Oh, I'm sorry. All right.

14 CROSS-EXAMINATION

15 BY MR. BERNARD:

1 burden of another man's soul; so if this person under his own individuality get himself in trouble, no other man should bear the burden of his wrong mistakes. That's why I'm in favor of -- and Omerta, you gave me some knowledge, because on a couple of my shirts, it has "honor, respect, dignity" and stuff like that. When he told me that it was -- and, of course, yes, sir, I knew about the code of silence thing, but that's not the part -- I like the way it looks. I have a whole sweatsuit. That's why I got this, because I understand that my code of silence is broke, you know, because of who I am now, and I had to be who I was in order to become who I am.

13 Q. Now, Mr. Ball, do you have any gripe, when someone sees a crime and is subpoenaed to appear, for them to appear and tell the truth?

14 A. When you say gripe, you --

15 Q. Well, that's not what you're against, is it?

16 A. No, sir. No, sir.

17 Q. I mean, you were subpoenaed to appear before a grand jury once upon a time, right?

18 A. Yes, sir.

19 Q. And I take it it was the prosecutors, --

20 A. Yes, sir.

21 Q. -- not the defense that subpoenaed you. Did you go?

22 A. Yes, sir.

24 (Pages 90 to 93)

# EXHIBIT U

# CONGRESS PARK CREW \*

Lil Bitz - Margo - Sheet - Macchie - Marche - Augie - Tarsha - Kee - Kee  
 Burqa - Ant - Cumma - Amon - Buntu - Jazz - Dazz - Phil - Gekka  
 Lil Kim - Tom - Yonnie - Monie - Kia - Nita - Melly - Big Apple - Mia  
 Joe - Joe - K-bey - Lt - Monya - Taneal - T.T. - REGG - Brian - Pig  
 Kisha P - Janetta - Nita - ~~crazu~~ Augie - 69 - T - Precious - Duck - Daze  
 Curtis - John - Tony - Tone - ~~libbsqu~~ - Don - ~~bookes~~ - ~~dog~~ <sup>Doo</sup>  
 Dausha - Monica - Tiffany - Danielle - ~~ebong~~ - Borchelle - ~~Tiffani~~  
 Season - Marco - Malin - Deon - Lawson - Boobie - Jamal - <sup>lil</sup> TC  
 Block - Harry - Milton - Steve - Taran - Quinton - Biracooda - Taneal  
 J.T - Sue - Joe - Tyb - DC - Daniel - Keish - Kevin <sup>lil</sup> - Kevin - Sad  
 Paydra - KC - <sup>lil</sup> Denbs - Debo - Jonny B - Zohe - Gerald  
 David - Boogie - Omeg - Ron - Avery - Bell Dog - Kevin  
 Doe - Prince - NooK - Boe - Boe - <sup>lil</sup> Kia - Pig - Bast - Dip  
 Redeye - <sup>RIP</sup> Hillary - Fontion - <sup>RIP</sup> Jessie - <sup>lil</sup> Marcus - <sup>RIP</sup> Kayron  
<sup>RIP</sup> Kevielle - Kimma - Chris - Hale - Truck - Reesq - <sup>RIP</sup> Tweety  
 Shalonuda - meat-ball - Head - <sup>RIP</sup> Kiley - Bruce -  
 Sharice - L.Dog - Tony - Paul - Radio - S - Wayne - Smoke  
 Benjamin - Caderman - <sup>Deus</sup> - Rob - Donetta - Claway  
 Sharelle - Sharelle - Nia - Dittie - Shemar - Lampatone

# EXHIBIT V

SUPERIOR COURT  
FOR THE DISTRICT OF COLUMBIA

Grand Jury No. May 2  
555 4th Street, N.W.  
Washington, D.C. 20001

June 18, 2003

12                   The testimony of ANTWAN BALL was taken in the  
13 presence of a full quorum of the Grand Jury, commencing at  
14 2:55 p.m., before:

SETH WAXMAN  
Assistant United States Attorney

1 cousin, Baby Kirie (ph.) is what we call him --

2 Q. Do you know his real name?

3 A. Kirie Kelly Brook -- excuse me.

4 Q. And you call, and you call him Baby Kai (ph.)?

5 A. Uh-hum.

6 Q. Is that yes?

7 A. Yes.

8 Q. And why do you call him Baby Kai?

9 A. Because he was named after my little brother that  
10 passed.

11 Q. Okay. Your little brother has since -- has passed  
12 away?

13 A. Yes.

14 Q. Sorry to hear that.

15 A. Uh-hum.

16 Q. And his name was --

17 A. Kirie also.

18 Q. So Baby Kai was named after your brother?

19 A. Right.

20 Q. Okay, go ahead.

21 A. And he was -- Kirie was talking to Faison (ph.) who  
22 is also a detective.

23 Q. Is that Bruce Faison?

24 A. Yes.

25 Q. Okay.

1           A.     But he's also a friend of everybody's, you know.  
2 You know, everybody can talk to him or whatever. And so I  
3 waved -- had my hand up to tell Baby Kirie to come here, and  
4 Faiston saw me. So I told Faiston, point at Baby Kirie and tell  
5 him to come here, and Faiston did, and Baby Kai walked over to  
6 me. And my question was, because of the situation, did Don do  
7 that? That's what I asked him, you know. And he said, no. I  
8 said, do not lie to me. You know what I'm saying? And he  
9 said, no, man, it was a short stocky dude with a mask on. And  
10 you know, this is my little cuz so -- and I ain't the police,  
11 he had no reason to lie to me so I left it alone. I was like,  
12 all right, you know, so --

13          Q.     Let me ask you. Can you describe Dominic Samuels'  
14 physical build?

15          A.     Tall, skinny.

16          Q.     Okay. And I don't know what you can about Dominic,  
17 but one thing is, would it be difficult to confuse him with a  
18 short stocky guy? Is that right?

19          A.     It would be difficult to confuse him with anybody  
20 because he's from the block.

21          Q.     Okay.

22          A.     Whether he had on a mask or not, he -- you know.

23          Q.     In other words, let me ask you. If you saw Dominic  
24 Samuels walking down the street and you had something covering  
25 his face, would you still know him?

1 A. Yeah, he got this little walk with him. Yes, sir.

2 Q. Okay. And so you had this conversation with Kirie  
3 down near the rental office. Is that right?

4 A. Yes.

5 Q. And that's where -- well, let me ask you. Did you  
6 see Black down at the rental office?

7 A. Yes, when he came out, he evidently ran into the  
8 rental office, and when he came out, he was on a stretcher.

9 Q. Okay. And did you see the ambulance or police take  
10 him away?

11 A. Yes.

12 Q. Okay. And then after Black was taken away, this is  
13 the point in time you had the conversation with Kirie?

14 A. No, Black. When Black came out on the stretcher,  
15 that's when I got Baby -- that's when Faison pointed -- Baby  
16 Kirie and pointed to me, so he wasn't able -- he may have said  
17 a few words to Black, like, man, you all right, and then came  
18 to me, and then they put Black in the ambulance.

19 Q. And it's at that point in time that you have the  
20 conversation with Kirie?

21 A. Yes.

22 Q. After that time, was there a time on Malcolm X  
23 Boulevard that you had a conversation with Kirie as well?

24 A. Malcolm X School.

25 Q. Oh, the school?

1

SUPERIOR COURT  
FOR THE DISTRICT OF COLUMBIA

10 Grand Jury No. March 2  
555 4th Street, N.W.  
11 Washington, D.C. 20001

12 April 14, 2003

14                   The testimony of JOSEPH JONES was taken in the  
15 presence of a full quorum of the Grand Jury, commencing at  
16 2:30 p.m., before:

18 SETH WAXMAN  
Assistant United States Attorney

FREE STATE REPORTING, INC.

Court Reporting Depositions  
D.C. Area (301) 261-1902  
Balt. & Annap. (410) 974-0947

**CASE NO. 05-100 (RWR) Exhibit**

**No. 1227 A**  
1249  
**US v. ANTWUAN BALL, ET AL.**

1 13th Place?

2 A. Not far at all. Like two minutes away.

3 Q. Okay. Two minutes walking?

4 A. Yeah.

5 Q. Okay. So, you were up at Savannah Place at a  
6 meeting, you said?

7 A. Uh-huh.

8 Q. Is that yes?

9 A. Yes, sir.

10 Q. That's okay. And tell us what happened as you're at  
11 this meeting?

12 A. Well, after the meeting was over, my buddy Antoine  
13 (phonetic sp.), that's Bird's brother, he was telling me that  
14 Black had got shot.

15 Q. Okay. So, Antoine's last name is --

16 A. Ball.

17 Q. So, Antoine Ball, he came to Savannah Place?

18 A. Yes, sir.

19 Q. Savannah Street, rather?

20 A. Yes, sir.

21 Q. And he told you what? What did he tell you?

22 A. That Black had just got shot.

23 Q. Did Antoine Ball see Black get shot?

24 A. Uh-uh.

25 Q. Is that no?

1 A. No, sir.

2 Q. Okay. And so, once he told you that, what happened?

3 A. He was, he -- I was like what happened? He was like  
4 his cousin Kairi, Kairi Kellibrew told -- he, he had asked  
5 Kairi did Don do it? Because he knew about the altercation  
6 they had. And he was like no, it was short dude with a mask  
7 on. Kairi said this to Antoine and he told me.

8 Q. Okay. So, now it's your testimony that when  
9 Antoine Ball came up to the Savannah Street location and told  
10 you that Black had been shot, that -- so far, that's what's  
11 happened, correct?

12 A. Yes, sir.

13 Q. And then after that, Antoine told you that he asked  
14 Kairi if Dominic shot Black?

15 A. Yes, sir.

16 Q. And that Kairi responded to Antoine Ball -- what was  
17 Kairi's response?

18 A. That it was a short, a short guy with a mask on.

19 Q. Okay. And did -- who -- did Antoine Ball tell you  
20 who was present when he had that conversation with  
21 Kairi Kellibrew?

22 A. No. I think he pulled him to the side. I think --  
23 while the police was right there, he told me this on 13th  
24 Street where they found Black at.

25 Q. Okay. So, you're saying that Antoine Ball pulled

1 Kairi Kellibrew to the side on 13th Street?

2 A. Yeah. While the police was right there.

3 Q. And, and Kairi said to Antoine Ball, at that point,  
4 it was a short -- I'm sorry, what --

5 A. A short guy with a mask.

6 Q. Short guy with a mask?

7 A. Uh-huh.

8 Q. Is that yes?

9 A. Yes.

10 Q. And in the last, say, two months or since the new  
11 year, 2003, how often do you think you see Antoine Ball?

12 A. Every day.

13 Q. Okay. And Amon Ball is his brother, is that right?

14 A. Yeah. We all work together.

15 Q. Okay. You all work at that 1313 Congress Street  
16 location?

17 A. Yes, sir.

18 Q. Okay. And have you all discussed the conversation  
19 that Antoine Ball had with Kairi Kellibrew?

20 A. No. I mean, me and Antoine -- you know, he was  
21 like -- because it's a rumor that he supposed to be a making a  
22 statement against Don or whatever. He just was telling me  
23 that he don't know why that he lying on him or whatever. But,  
24 he, he told him face to face that it was guy with -- a short  
25 guy with a mask on.

1 | SUPERIOR COURT  
FOR THE DISTRICT OF COLUMBIA

Grand Jury No. April 5  
555 4th Street, N.W.  
Washington, D.C. 20001

May 1, 2003

The testimony of STEVEN SUTTON was taken in the  
presence of a full quorum of the Grand Jury, commencing at  
3:37 p.m., before:

19 SETH WAXMAN  
Assistant United States Attorney

FREE STATE REPORTING, INC.  
Court Reporting Depositions  
D.C. Area (301) 261-1902  
Balt. & Annap. (410) 974-0947

1 A. Yeah.

2 Q. Okay. And what happened after that?

3 A. I asked him what happened. He said he had -- you  
4 want me to see the map again or just tell you?

5 Q. Go ahead. You can just tell us and then we'll refer  
6 to the map if we --

7 A. He said he pulled in the circle in the back to go  
8 upstairs and get something out of some girl house, some water  
9 or something, get something. And he ran upstairs and said he  
10 heard some shots. Said he ran back downstairs. When he got  
11 to the back door, he opened his door and he looked and he said  
12 aye (phonetic sp.), because the guy was shooting in his car.  
13 The guy looked at him and kept on shooting in his car. He  
14 said the guy was not cocky -- stocky with a T-shirt wrapped  
15 around his head.

16 Q. Okay. And this is what Kairi is telling you?

17 A. That's what he told me that day. Yeah.

18 Q. Okay. And about how long after the shooting took  
19 place do, do you know you were having this conversation with  
20 Kairi? Do you have any sense if it was hours or just minutes?

21 A. I would say hours.

22 Q. Okay. And so, Kairi is telling you that it was a  
23 stocky guy? Is that yes?

24 A. Yes.

25 Q. And did he give you any other description about the

1 shooter?

2 A. That he had two guns and a T-shirt wrapped around  
3 his head.

4 Q. Okay. So, the T-shirt was wrapped around his head.  
5 Is that right?

6 A. Yes.

7 Q. And he had two guns?

8 A. Yeah.

9 Q. And did Kairi say he saw fire -- both of those guns  
10 being fired, or did he not tell you that much detail?

11 A. No. He said he seen the guns. He said aye when he  
12 seen the guy shooting in his car and the guy looked at him.  
13 He said the guy had two guns and was shooting in the car.

14 Q. Did you say anything to him about Don, at that  
15 point?

16 A. Don?

17 Q. Yeah.

18 A. No.

19 Q. Did you ask him if it was Don?

20 A. When he said it was short cocky guy, it couldn't  
21 have been Don.

22 Q. And you say cocky. You use that word cocky and  
23 stocky interchangeably --

24 A. Yeah.

25 Q. -- is that right?

1 A. How it make me feel?

2 Q. Correct.

3 A. I don't approve of it.

4 Q. Well, by --

5 A. I don't mean to -- hold on, let me take that back.

6 I don't approve of him lying. I'll put it that way.

7 Q. Okay.

8 A. I don't approve of that.

9 Q. Okay. Well --

10 A. The part with the Government, I say lying.

11 Q. All right. But, that's because you're testifying  
12 that he told you that it was a short stocky guy?

13 A. Yeah.

14 Q. And based on things and that you've heard that, at  
15 some point, he's saying that Don is the shooter. Is that your  
16 testimony?

17 A. Yeah.

18 Q. And you're saying that you don't approve of that.  
19 And, again, what do you mean by that?

20 A. I don't approve of him lying on somebody.

21 Q. Okay. And let me ask you this. And I don't think  
22 I've ever discussed this term with you, have you ever heard of  
23 something called a street code or the way things are handled  
24 on the street when you pick up a charge?

25 A. I heard of it. Yeah.

1 MR. WAXMAN. You do. I'll take care of that with  
2 you outside.

3 WITNESS. Oh, okay.

4 MR. WAXMAN. You been waiting here a long time. I  
5 know -- we'll make sure you get that.

6 GRAND JUROR. Thank you.

7 MR. WAXMAN. Appreciate that.

8 (Whereupon, the witness was excused at 4:17 p.m. and  
9 recalled at 4:29 p.m.)

10 BY MR. WAXMAN:

11 Q. Okay, Mr. Sutton, I'm, I'm reminding you that you're  
12 still under oath. Do you understand that? You have to answer  
13 out loud.

14 A. Yes.

15 Q. Okay. And we do have just one follow up question.  
16 You had testified earlier that Kairi Kellibrew told you on the  
17 day Jamel Sills was shot that it was a short stocky or cocky  
18 guy, is that correct?

19 A. Yes.

20 Q. And you've also testified that sometime later you  
21 had learned either through a third person such as Gloria or  
22 just discussion in the, in the neighborhood that Kairi has  
23 been saying that it's now Dominic. Is that correct?

24 A. Yes.

25 Q. Okay. In your mind, what benefit could Kairi

17. *Leucosia* *leucostoma* *leucostoma* *leucostoma*

1

SUPERIOR COURT  
FOR THE DISTRICT OF COLUMBIA

April 18, 2003

15 The testimony of AMAN BALL was taken in the presence  
16 of a full quorum of the Grand Jury, commencing at 11:12 a.m.,  
17 before:

19 SETH WAXMAN  
Assistant United States Attorney

FREE STATE REPORTING, INC.

Court Reporting Depositions  
D.C. Area (301) 261-1902  
Balt. & Annap. (410) 974-0947

1 Black shot over there." And so we rushed off on Detective  
2 Faison. And Kyree walked up, and that's when my brother  
3 Antwaun asked Kyree, "Was it Dom who shot Black?" And that's  
4 when Kyree said, "No, it was a short, stocky dude who had on a  
5 mask." And that was it.

6 Q. And so it's your testimony that your brother Antwaun  
7 asked Kyree if Dom was the person that he saw shot Black, and  
8 Kyree's response was, "No, it wasn't. It was a short, stocky  
9 guy with a mask on."

10 A. Yes.

11 Q. And who was present when that conversation took  
12 place?

13 A. Me, along with my brother.

14 Q. Just the two of you?

15 A. Like I said, like I said when we talking upstairs,  
16 it was a lot of people outside, so, you know what I'm saying,  
17 we don't affiliate with anybody. We just branched off a  
18 little bit and talked.

19 Q. So based on your memory of that conversation, was  
20 there anyone else besides you, Antwaun and Kyree that could  
21 hear what you all were saying?

22 A. No.

23 Q. Was there anyone within a foot or two of you?

24 A. No. No.

25 Q. Now did you say anything during this conversation?

1 A. Uh-uh.

2 Q. And you're saying, you're saying that Kyree told  
3 both you and Antwaun that it was a short, stocky guy that was  
4 the shooter?

5 A. Yes.

6 Q. Did he make any other statements about actually  
7 seeing the shooting or anything like that?

8 A. I mean, he had to see it because he wouldn't have  
9 told us it was a guy, it was a short, stocky guy that had on a  
10 mask, you know.

11 Q. But he didn't actually describe, "I saw the short,  
12 stocky guy with the mask do A, B and C," or he just said  
13 simply, as you've testified, "It was a short, stocky guy."

14 A. Right.

15 Q. And just so the record's clear: The only thing that  
16 he told you that the person he saw did the shooting was a  
17 short, stocky person.

18 A. Yes.

19 Q. And he didn't describe that shooting in any way  
20 besides that.

21 A. Right.

22 Q. After that conversation, what happened? Where did  
23 you go?

24 A. Well, after that conversation I think we stood right  
25 there for a minute just to, like, to see the, the conditions

# EXHIBIT W

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :  
:  
Plaintiff, : Docket No. CR 05-100  
:  
v. :  
:  
ANTWUAN BALL, DAVID WILSON, : Washington, DC  
GREGORY BELL, DESMOND :  
THURSTON, JOSEPH JONES, and : March 1, 2007  
DOMINIC SAMUEL, : 920 a.m.  
:  
Defendants. :  
:  
:

VOLUME 10 - MORNING SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS  
UNITED STATES DISTRICT COURT JUDGE, and a JURY

APPEARANCES:

For the United States: UNITED STATES ATTORNEY'S OFFICE  
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For Defendant  
Antwuan Ball: CARNEY & CARNEY  
John James Carney, Esq.  
South Building  
601 Pennsylvania Avenue, N.W.  
Washington, DC 20004  
202.434.8234

1 Q. When your mother had the cordless phone back then in  
2 September of 2003, was it customary for you to receive pre-trial  
3 calls to that cordless phone?

4 A. Yes.

5 Q. And tell the jury where you would be when you were  
6 receiving those calls from pre-trial?

7 A. Outside. Out back in the alley.

8 Q. Is that something that you were supposed to do?

9 A. No.

10 Q. And what was it that allowed you to receive the calls out  
11 in the alley even though you were supposed to be inside the  
12 home?

13 A. The cordless phone.

14 Q. How far could you get?

15 A. Within like 50, 60 feet.

16 Q. Show us on Government's Exhibit 100.1 how far you could  
17 get and still receive a call from pre-trial.

18 A. (Indicating.)

19 Q. I'll note for the record on Exhibit 100.1, to the right  
20 of the building you circled earlier, you made a yellow mark at  
21 the corner of that building still in the alley, indicating how  
22 far you used to be able to get and still receive the calls from  
23 pre-trial?

24 A. Yes.

25 Q. When's your birthday?

1 A. September the 8th.

2 Q. September the 8th?

3 A. Yes.

4 Q. And in September of 2003, right around your birthday, do  
5 you recall an incident that happened in that alley?

6 A. Yes, I do.

7 Q. Was it before your birthday or after?

8 A. Before my birthday.

9 Q. And what was it about that incident that you can pinpoint  
10 it to September of '03.

11 A. It was a shooting.

12 Q. Do you remember what time of day it was that this  
13 shooting occurred?

14 A. It was after 8:00.

15 Q. Why do you think it was after 8:00?

16 A. Because I was in the alley waiting to receive my phone  
17 call.

18 Q. What did you have in your hand?

19 A. A cordless phone.

20 Q. What were you getting ready to do that evening?

21 A. Drink. Start celebrating my birthday early.

22 Q. Who were you with?

23 A. Me, my aunt, her girlfriend, my sister's boyfriend and  
24 myself.

25 Q. Where were you exactly in the alley when you're starting

1 to get ready to celebrate your birthday?

2 A. Right out underneath my mother's window, out in the back  
3 of the alley.

4 Q. Would you please show us on Exhibit 100.1. Try to draw a  
5 box where you were.

6 A. (Indicating.)

7 Q. I see for the record you made an attempt to draw a box.  
8 There's another arrow now on the inside of the alley right below  
9 the semi-circle you had circled indicating your mother's house?

10 A. Yes.

11 Q. Were you in the alley or close to the building?

12 A. I was in the alley close to the building, right  
13 underneath the window.

14 Q. And in September of 2003, what were the lighting  
15 conditions like then?

16 A. It was bright.

17 Q. Describe that alley. What's in there as far as lighting?

18 A. Just parked cars.

19 Q. How about lighting?

20 A. Yeah, lighting on the buildings.

21 Q. How many lights on each building?

22 A. One big light.

23 Q. Where does it face?

24 A. The alley.

25 Q. Does the alley itself have any standalone lights?

1 A. No.

2 Q. Where you were standing, was there a light?

3 A. Yes, there was.

4 Q. You said you were getting ready to drink. What were you  
5 getting ready to drink?

6 A. Remy.

7 Q. Had you started already?

8 A. Yes.

9 Q. How much Remy had you started to drink before, as you  
10 said, there was a shooting?

11 A. I'd say around about two cups.

12 Q. Had you drunk anything before?

13 A. No.

14 Q. How was your state of mind, your condition like?

15 A. I wasn't intoxicated. I was focused.

16 Q. Had you been smoking marijuana?

17 A. No.

18 Q. Doing any other type of drugs?

19 A. No.

20 Q. When you're standing out there, tell the jury what you  
21 saw.

22 A. I was standing outside in the back of the alley and I was  
23 out there drinking and three males came running from across 14th  
24 Place and two of them were shooting.

25 Q. Let's elaborate a little bit further. You were standing

1 out there and you saw three males?

2 A. Yes.

3 Q. When you were looking at them, indicate on Government's  
4 Exhibit 100.1 where they came from.

5 A. (Indicating.)

6 Q. I'll note for the record on Government's Exhibit 100.1 to  
7 the far right, right around the center of the exhibit near like  
8 a grass field, you've made a line?

9 A. Yeah.

10 Q. And where did you see these three guys heading?

11 A. Towards our direction.

12 Q. To the alley?

13 A. Yes.

14 Q. These males, were they white or black?

15 A. Black.

16 Q. And let's take them one by one. The first person that  
17 you saw, describe what he looked like. We'll call him male  
18 number 1.

19 A. Tall, brown-skinned, long corn rows.

20 Q. Do you remember what he was wearing?

21 A. Black T-shirt, blue jeans.

22 Q. Do you remember what, if anything, that person had on his  
23 face?

24 A. He had a shirt wrapped around his face.

25 Q. Do you remember the color of the shirt?

1 A. A black T-shirt.

2 Q. Do you remember how the shirt was covered around that  
3 male 1's face?

4 A. Like a Ninja.

5 Q. What does that mean? Explain to the jury "like a Ninja."

6 A. You could just see only his eyes and nose.

7 Q. When you saw that person running into the alley, was that  
8 person carrying anything?

9 A. Yes.

10 Q. What did you see that person carrying?

11 A. He was carrying a gun.

12 Q. One or more?

13 A. Just one.

14 Q. What kind of gun did you see?

15 A. Like a fully automatic.

16 Q. When you first saw that person come in with that gun, was  
17 that person already shooting?

18 A. Yes, he was.

19 Q. Based on the physical characteristics that you saw of  
20 that person, did you determine in your own mind who it was?

21 A. Yes.

22 Q. Who did you think it was?

23 A. A little guy named Trevor.

24 Q. What was it that made you conclude that person was  
25 Trevor?

1 A. Because of his height, his build and his long corn rows.

2 Q. How long had you known this person named Trevon?

3 A. For about eight years.

4 Q. Where had you known him from?

5 A. 14th Place.

6 Q. Let's go now with male 2. You said there was another

7 person. Describe what that person looked like.

8 A. Short, dark-skinned, kind of stocky, a little guy.

9 Q. Do you remember what that person was wearing?

10 A. The same. Black shirt, blue jeans.

11 Q. Was this person walking in the same direction as Trevon?

12 A. Yes, he was.

13 Q. Just clarify for us, were these guys walking or were they

14 running to the alley?

15 A. It was like a light jog.

16 Q. This second person was ahead of Trevon or side by side or

17 behind him?

18 A. Like a little distance from him, but like not too far

19 from him.

20 Q. Did this person have anything covering or on his face?

21 A. Yes.

22 Q. What did you see?

23 A. A black T-shirt covering his face.

24 Q. In what manner?

25 A. Like a Ninja also.

1 Q. What could you see as -- from this person's face?

2 A. Just his eyes and nose.

3 Q. Did you see anything in that person, male number 2, in  
4 that person's hands?

5 A. Yes.

6 Q. What did you see?

7 A. A 12-gauge shotgun.

8 Q. Was it a full barrel or cutoff?

9 A. Cutoff.

10 Q. When you saw this second person, was he already shooting  
11 or not?

12 A. Yes.

13 Q. Based on the physical characteristics of that person, did  
14 you conclude who that person was?

15 A. Yes.

16 Q. Tell us how you did that.

17 A. Because of his build, short, small, kind of stocky and  
18 dark-skinned.

19 Q. Based on what you saw, who did you think it was?

20 A. A little dude named Eyes.

21 Q. "Eyes" as in eyes, physically the eyes?

22 A. Yes.

23 Q. How long had you known this, as you say, "little dude  
24 named Eyes"?

25 A. Around about seven years, seven to eight years. Seven to

1 eight years.

2 Q. Where had you known this little person or this little  
3 dues Eyes from?

4 A. From 14th Place.

5 Q. Had you ever seen this guy Eyes and Trevon together?

6 A. Yes.

7 Q. How far is 14th Place from Congress Park?

8 A. It's in Congress Park.

9 Q. How close is it to the alley?

10 A. Not far at all.

11 Q. Walking distance? Driving distance?

12 A. Walking.

13 Q. When you see these guys, like you say, like a light jog  
14 coming into the alley, armed, tell the jury what you saw next.

15 A. I seen them shooting at a group of males.

16 Q. Did you recognize any of the group of males that these  
17 guys were shooting at?

18 A. Yes.

19 Q. Who did you see that you recognize in this group of  
20 males?

21 A. Antwuan, Joe-Joe, Deuce, Foots, and another dude named  
22 Fat Tony and some other individuals I didn't know.

23 Q. Antwuan Ball, one of the defendants?

24 A. Yes.

25 Q. Joe-Joe, Joseph Jones, one of the defendants?

# EXHIBIT X

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :  
:  
Plaintiff, : Docket No. CR 05-100  
:  
v. :  
:  
ANTWUAN BALL, DAVID WILSON, : Washington, DC  
GREGORY BELL, DESMOND :  
THURSTON, JOSEPH JONES, and : May 17, 2007  
DOMINIC SAMUELS, : 9:15 a.m.  
:  
Defendants. :  
:  
:

VOLUME 52 - MORNING SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS  
UNITED STATES DISTRICT COURT JUDGE, and a JURY

APPEARANCES:

For the United States: UNITED STATES ATTORNEY'S OFFICE  
Glenn S. Leon, Assistant United  
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For Defendant  
Antwuan Ball: CARNEY & CARNEY  
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202.434.8234

1 Q. And how often?

2 A. I was on -- I had to call in every day, and if your  
3 number --

4 Q. I'm asking just about urine tests.

5 A. You had to call in.

6 Q. For what reason?

7 A. To see if I had to take a urine.

8 Q. I see. And if you learned you did, you would go take a  
9 urine?

10 A. Yes.

11 Q. What part of the city would you have to go to to do that?

12 A. It was over in Capitol Heights. I'm not sure of the  
13 exact neighborhood.

14 Q. And yes or no, do you know if LT had similar drug testing  
15 conditions when he got released?

16 A. Well, he was in a halfway house at the time, so whatever  
17 drug testing they did they did up there at the halfway house, I  
18 guess.

19 Q. And when you would go to drug tests, would you go alone  
20 or sometimes would you go with LT or Antwuan?

21 A. With LT and Antwuan.

22 Q. And these would be for your own drug tests?

23 A. Yes.

24 Q. How often would you say you, LT and Antwuan would drive  
25 together to do this test?

1 A. Well, it was just one, like I said, one particular time  
2 right there that I drove with them, that I drove over there with  
3 them.

4 Q. Okay. Who was driving?

5 A. I was driving Antwuan's truck at the time because he was  
6 rolling up a joint.

7 Q. Who's -- you said truck. What kind of truck?

8 A. Gray Expedition.

9 Q. And it was Antwuan's truck?

10 A. Yeah.

11 Q. You're driving?

12 A. Yes.

13 Q. Where's Antwuan?

14 A. He's in the back; LT in the front.

15 Q. Anyone else in the truck?

16 A. Just us three.

17 Q. Tell us about that conversation.

18 A. Basically we was riding over there to get ready to go  
19 take my urine, and LT got to messing with Antwuan about the  
20 bullet holes that was in his truck.

21 Q. What do you mean by that, messing with him about bullet  
22 holes?

23 A. He was joking with him, like, asking him why he didn't  
24 get it fixed.

25 Q. Were there bullet holes in Antwuan's truck?

1 A. Yes. It had duct tape over them.

2 Q. Did you see this?

3 A. Yes.

4 Q. And when LT is joking with Antwuan about this, what does  
5 Antwuan say in response?

6 A. Basically LT asked him who had did it, and he was like,  
7 "Man, Travon." As soon as he get a chance, man, he was going to  
8 smash him.

9 Q. Who said that?

10 A. Antwuan.

11 Q. And he said that about Travon. Did you know who Travon  
12 was?

13 A. I knew he was a little guy around the neighborhood, but  
14 he was younger than me. I didn't know him, per se.

15 Q. Would you know him to see him?

16 A. Nope.

17 Q. When you say a little guy, do you mean physically or  
18 little in age?

19 A. Young, much younger than I am, or was.

20 Q. And what, if anything, did you say in response when  
21 Antwuan says this?

22 A. I didn't say nothing. I don't think I said nothing.

23 Q. Did Antwuan say why he wanted to do that?

24 A. The guy had supposedly, man -- him and guy had a --  
25 MR. CARNEY: Objection, Your Honor.

1 BY MR. LEON:

2 Q. Tell us, just so it's clear, tell us what Antwuan said.

3 A. He just said that the guy had come up -- they had fought  
4 or smacked him, one or the other. I don't remember quite what  
5 he said, but I know they was beefing.

6 Q. And did Antwuan indicate if he was going to do this alone  
7 or with other people?

8 A. He didn't say if he was going to do it with other people  
9 or not.

10 MR. CARNEY: Your Honor, objection to the form of these  
11 questions.

12 THE COURT: Sustained. Why don't we break.

13 MR. LEON: Okay.

14 THE COURT: Ladies and gentlemen, we're going to take that  
15 abbreviated lunch break now. It's 12:30. Please be back at 1:15  
16 so we can accomplish our scheduling interests. Enjoy your break.  
17 Don't talk about the case, and take your notes back with you into  
18 the jury room. See you back at 1:15.

19 (Jury out at 12:29 p.m.)

20 THE COURT: All right.

21 (Thereupon, a luncheon break was taken at 12:30 p.m.)

22

23

24

25

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, : Docket No. CR 05-100  
Plaintiff :  
v. : Washington, DC  
ANTWUAN BALL, :  
DAVID WILSON, :  
GREGORY BELL, : May 17, 2007  
DESMOND THURSTON, :  
JOSEPH JONES, :  
DOMINIC SAMUELS, :  
Defendants : 1:15 p.m.  
\* \* \* \* \*

VOLUME 52 - AFTERNOON SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS,  
UNITED STATES DISTRICT JUDGE, and a jury

APPEARANCES:

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GLENN S. LEON, ESQUIRE  
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(202) 454-2811

1

P R O C E E D I N G S

2

(Jury in at 1:17 p.m.)

3

THE COURT: Good afternoon, ladies and gentlemen.

4

Welcome back, and thank you again for accommodating our schedule  
change. Counsel?

5

MR. LEON: Thank you.

6

CONTINUED DIRECT EXAMINATION

7

BY MR. LEON:

8

Q. Mr. Pough, when we last left off before our break, we were  
talking about a conversation you had with Antwuan, with LT  
present, in his Expedition. Do you remember that?

9

A. Yes.

10

Q. Do you remember when in September this -- well, first of  
all, was this in September?

11

A. Yes.

12

Q. Do you remember when?

13

A. I don't remember the exact date.

14

Q. Do you remember when in September approximately LT got  
released?

15

A. Naw, I don't.

16

Q. Okay. And can you -- you said you saw bullet holes on the  
Expedition?

17

A. Yes.

18

Q. Do you remember where you saw them?

19

A. I know for sure some of them was in the back, the back of

1 the truck, like in the trunk part.

2 Q. Did Antwuan Ball say why Antwuan wanted to smash Travonne?

3 A. He said the guy jumped out there with him or something, the  
4 guy wasn't respecting him, or something to that effect.

5 Q. October/November of 2003, did you spend time with  
6 Antwuan Ball?

7 A. I would say about probably lasted up until about October.

8 Q. October?

9 A. Yeah.

10 Q. And during that time, what types of things would you do with  
11 Antwuan?

12 A. Basically, go and pick LT up from the halfway house, might  
13 stop and grab something to eat, lunch or breakfast.

14 Q. Was LT always with you and Antwuan, or would you sometimes  
15 spend time alone with Antwuan?

16 A. Sometimes we would drive back by ourself from dropping LT  
17 off at the halfway house. But other than that, naw, it was  
18 basically with, LT always was around.

19 Q. First just yes or no, did you and Antwuan ever talk about a  
20 conspiracy case?

21 A. Yes.

22 Q. And who talked about it, you or Antwuan?

23 A. Antwuan.

24 Q. And when -- was this just one conversation, or more than  
25 one, that you had with Antwuan about this?

1 A. I can't remember how many, but a particular day he was  
2 saying to LT --

3 Q. I'll stop you there. I just want to establish a time frame.  
4 Do you remember a particular conversation that you had with  
5 Antwuan about a conspiracy case?

6 A. Yes.

7 Q. And was LT there?

8 A. Yes.

9 Q. Anyone else there other than you, LT, and Antwuan?

10 A. No.

11 Q. And to the best of your memory, where was this conversation?  
12 Where were you physically?

13 A. We was driving.

14 Q. In what vehicle?

15 A. His Expedition.

16 Q. Was this the same conversation when Antwuan said he was  
17 going to smash Travonne?

18 A. Yes.

19 Q. And so again, you were driving that vehicle?

20 A. Yes. And he basically said -- told LT to hurry up, he  
21 needed to hurry up and get out the halfway house so he could  
22 start getting rid of some of the guys that he thought was going  
23 to flip.

24 Q. Who said that?

25 A. Antwuan.

# EXHIBIT Y

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, : Docket No. CR 05-100  
Plaintiff :  
v. : Washington, DC  
ANTWUAN BALL, :  
DAVID WILSON, :  
GREGORY BELL, : June 18, 2007  
DESMOND THURSTON, :  
JOSEPH JONES, :  
DOMINIC SAMUELS, :  
Defendants : 9:15 a.m.  
· · · · · : · · · · ·

VOLUME 68 - MORNING SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS,  
UNITED STATES DISTRICT JUDGE, and a jury

APPEARANCES:

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GLENN S. LEON, ESQUIRE  
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1 Q. Would you recognize Boy-Boy if you saw him here today?

2 A. Yes.

3 Q. I'm going to ask if you can take a look, and you can stand  
4 up if you have to. Tell us if you see Boy-Boy.

5 A. Yes.

6 Q. Where is Boy-Boy?

7 A. Right there.

8 Q. Is that the gentleman who is standing up right now?

9 A. Yes.

10 Q. With the blue shirt? Yes?

11 A. Yes.

12 MR. LEON: Your Honor, may the record reflect an  
13 in-court identification of Mr. Bell?

14 MR. BEANE: No objection.

15 THE COURT: Request is granted.

16 BY MR. LEON:

17 Q. Now, when you -- tell us, when you first saw this car,  
18 Boy-Boy's car, where was it? You can step down if you need to.

19 A. Right there (indicating).

20 Q. For the record, you pointed to a portion of what appears to  
21 be an alley, and you pointed to a portion just directly below or  
22 in front of the dot you indicated was where you and Kanisha  
23 were. Is that right?

24 A. Yeah.

25 Q. So the car was near you?

1 A. Yes.

2 Q. I'm going to ask you to hold this so we can hear you better.

3 Okay?

4 And the reason we need to do that is we need to make  
5 sure the court reporter can make an accurate record. Okay?

6 When you saw the car, was Boy-Boy in it?

7 A. No.

8 Q. Who was in it?

9 A. Cool Wop.

10 Q. Cool Wop?

11 A. Yes.

12 Q. And who is Cool Wop?

13 A. David.

14 Q. Do you see Cool Wop here in the courtroom today?

15 A. Yes.

16 Q. And I'm going to ask if you can also point him out based on  
17 his location and anything he might be wearing?

18 A. He have -- he have a blue and white stripe shirt with the  
19 pretty eyes.

20 Q. And for the record, what kind of tie is he wearing? Is he  
21 wearing a tie?

22 A. Yes, he is. It look like pink and burgundy.

23 MR. LEON: Your Honor, may the record reflect an  
24 in-court identification of Mr. Wilson?

25 MS. WICKS: No objection.

1                   THE COURT: Request is granted.

2 BY MR. LEON:

3 Q. You said something about him having pretty eyes?

4 A. Yes.

5 Q. Now, you said -- I think you said that Cool Wop was driving  
6 the car. Did you see Boy-Boy in the car at all?

7 A. No, I didn't.

8 Q. And was anyone else in the car with Cool Wop?

9 A. No.

10 Q. And was the car standing still or was it driving?

11 A. It was circling around the block.

12 Q. Now when you say it's circling around the block, could you  
13 just show us with your finger the direction the car was  
14 circling?

15 A. (Witness complies.)

16 Q. For the record, you made an indication starting from  
17 beginning in the left portion, lower portion of the exhibit,  
18 going around to the right and then coming back to the left and  
19 back to the right?

20 A. Yes.

21 Q. Kind of like a clock, clockwise?

22 A. Yes.

23 Q. Why don't you sit down again?

24 A. (Witness complies.)

25 Q. How many times did the car circle that area?

1 A. Three times.

2 Q. And let's take them one at a time. The first time, did you  
3 see the car?

4 A. I didn't pay attention to it.

5 Q. Okay. Did you pay attention to it at some point?

6 A. The second time I did.

7 Q. And why was that?

8 A. Because how he was looking.

9 Q. Who was looking?

10 A. David.

11 Q. And show us, how was he looking?

12 A. Like he was riding around like (indicating).

13 Q. For the record, you took out your -- I'm not going to do a  
14 very good job of this but I'll try. You held out your hand like  
15 you're driving the steering wheel with your right hand?

16 A. Like a mug, you know how to mug.

17 Q. Mugging?

18 A. Yes.

19 Q. Was that what you were just doing?

20 A. Yes.

21 Q. Is that what David was doing?

22 A. Yes.

23 Q. Who was he mugging at?

24 A. He was looking towards Travon.

25 Q. How close was Travon to you when David was mugging?

1 A. Right next to me.

2 Q. And how close was -- well, withdrawn.

3 How quickly or slowly is the car driving when it's  
4 circling like that?

5 A. Slow.

6 Q. Excuse me?

7 A. Slow.

8 Q. Slow.

9 That second time when you noticed David mugging, what  
10 if anything did you do or say?

11 A. I asked Travon did he do something to somebody.

12 Q. Did who do something to who?

13 A. Did Travon do something to somebody.

14 Q. Okay. And why did you ask Travon that at that point?

15 A. Because the way how he was looking.

16 Q. The way he was looking what?

17 A. The way how David was looking.

18 Q. What about it?

19 A. The car kept circling around the block. The second time I  
20 had asked Travon, I said, did you do something to somebody? He  
21 was like, why you say that?

22 MS. WICKS: Objection.

23 THE COURT: Hold on one second.

24 MS. WICKS: Objection to hearsay.

25 THE COURT: Overruled. Go ahead, you can continue.

1 A. He was like, why you say that? I was like, you know what,  
2 just turn my way.

3 Q. You said that to Travon?

4 A. Yes.

5 Q. Okay.

6 A. So I had turned him myself my way.

7 Q. And what do you mean by you turned him yourself, did you  
8 actually grab him, touch him?

9 A. The way how he was standing was his back like this and this  
10 me, so I had turned him a little like -- I turned like this and  
11 we was like this so he could see for hisself. Like this me and  
12 this him, so I turned him that way so he could see for hisself.

13 Q. And when you turned him, where was he facing?

14 A. We was both like this. This him, this me.

15 Q. And when you turned him, what direction was he facing? You  
16 don't have to point, but you can just tell us in words. When  
17 you got him to where you wanted him to look, if he was looking  
18 straight ahead, where would he be looking?

19 A. Up that alley.

20 MS. WICKS: Objection. Speculation.

21 THE COURT: Overruled.

22 BY MR. LEON:

23 Q. You can point. Just step down and point to us the direction  
24 you had him look.

25 A. (Witness complies.)

1 Q. For the record, you indicated the left portion of the map?

2 A. Yes. But the way how we was standing, it was like if he was  
3 to turn his head, he can see this way, and if he was to turn his  
4 head, he can see this way.

5 So this him and this me, so both our heads, we talking,  
6 we looking at each other. But if he was to look, he can look  
7 this way or that way.

8 Q. Okay. And for the record, when you say this way or that  
9 way, you pointed --

10 A. Left and right. Left and right.

11 Q. Of that same alley where the car was driving?

12 A. Yes.

13 Q. Okay. You can sit down.

14 A. (Witness complies.)

15 Q. And when you did this with Travon, had him turn, was this  
16 after the second time the car went by?

17 A. Yes.

18 Q. When you said that to Travon, did you do something to  
19 somebody, what if anything did Travon say back?

20 MS. WICKS: Objection. Asked and answered.

21 THE COURT: Approach.

22 (BENCH CONFERENCE ON THE RECORD.)

23 THE COURT: What's the answer going to be?

24 MR. LEON: I expect the answer to be either no or words  
25 to the effect of no or I don't know. We're not offering it for

1       its truth, it's just going to be a question and a response just  
2       to keep the story moving.

3                  MS. WICKS: I think she answered this -- I think she  
4       actually explained this already, and at that point I objected to  
5       the hearsay and the Court overruled me.

6                  THE COURT: Excuse me. But an answer has already come  
7       out to a question, so it wasn't hearsay.

8                  MS. WICKS: But it's a different answer than what he's  
9       saying now. The answer that he's saying now, unless it's being  
10      offered for the truth, I don't see how it's relevant.  
11      Particularly since it's different -- I mean, what the government  
12      is proffering is different than what she's already said.

13                 THE COURT: All right. I'll overrule it.

14                 (END BENCH CONFERENCE.)

15       BY MR. LEON:

16       Q. When you said this to Travon, what if anything do you  
17       remember Travon saying back to you?

18       A. Why? Why you say that?

19       Q. Why you what?

20       A. Why you say that?

21       Q. Okay. And then he says that and you turn him. Tell us what  
22       happens next. Does the car stop or does it keep going?

23       A. It keep going. It keep going.

24       Q. Where?

25       A. Around the block.

1 Q. Okay. And then what?

2 A. And then we started back to talk, and then the third time,  
3 the car came again, and it parked.

4 Q. Okay. So where did the car -- can we see on that map  
5 approximately where that car finally stopped after the third  
6 time?

7 A. Yes.

8 Q. And I'm going to ask if you can step down with that pen and  
9 point to it.

10 A. (Witness complies.)

11 Q. For the record, can you make that a little darker? You made  
12 a mark there, I just want to make sure we can see it.

13 A. (Witness complies.)

14 Q. For the record, you made a mark with the pen in your hand  
15 which is just to the right of that dot you showed us where you  
16 and Kanisha were. Correct?

17 A. Yes.

18 Q. And it looks like it's right about between the two cars  
19 which appear to be just to the right of that red dot. Correct?

20 A. Yes.

21 Q. And that's where -- you can sit down.

22 A. (Witness complies.)

23 Q. And that's where Boy-Boy's car stopped?

24 A. Yes.

25 Q. And when Boy-Boy's car stopped, where are you and Travon at

1 that point?

2 A. Still standing right there talking.

3 Q. Are you talking near the tree or at the car?

4 A. At the car.

5 Q. And is Kanisha there at that point?

6 A. Yes.

7 Q. Tell us what happens next. You're there with Travon talking  
8 and then Boy-Boy's car stops.

9 A. We go to the car and Kanisha asks him can she get a light.  
10 So they was fussing over a cigarette, and...

11 Q. Who was fussing?

12 A. Travon and Kanisha.

13 Q. How were they fussing?

14 A. He was like, "Girl, you pregnant, and if that's my cousin's  
15 baby, I'm going to hurt you." She was like, "Boy, just give me  
16 the light." So they were like lighting the cigarette.

17 Then once he lit the cigarette, he came back to me.

18 Q. So he did light a cigarette for Kanisha?

19 A. Yes.

20 Q. After that he did what?

21 A. Came back to me.

22 Q. And are you at the car or are you somewhere else?

23 A. I'm at the car.

24 Q. And when Travon comes back to you, tell us what happens  
25 next.

1 A. Yes.

2 Q. And what is he doing at that trunk?

3 A. Trying to get into the trunk.

4 Q. Did he get inside the trunk?

5 A. No.

6 Q. And then what happens?

7 A. Once Travon said, oh, that's my song, turn it up. So we  
8 turned it up -- no, sorry.

9 We over there talking, so as we talking, David is  
10 staring at us. So I tapped Travon and I said, "Look." And so  
11 Travon looked and he was staring at us.

12 So Travon walked over there and was like, "What's up,  
13 son?" And David gave him five and he smarted back. Then Travon  
14 walked over to me.

15 Q. So Travon walked over to David?

16 A. Yes.

17 Q. And said, "What's up, son"?

18 A. Yes.

19 Q. And you said gave him a five. Can you show us what did he  
20 do?

21 A. (Witness complies.)

22 Q. Are you mugging on me? What did he do?

23 A. Excuse me?

24 Q. You just showed us the hands kind of slapped and grabbed  
25 each other?

1 A. Yeah.

2 Q. And when Travon said something like "What's up, son," did  
3 David say anything back?

4 A. No.

5 Q. What did David's face look like at that point?

6 A. Just staring.

7 Q. Just staring?

8 A. Yes.

9 Q. And then Travon came back to you?

10 A. Yes.

11 Q. And tell us what happens next.

12 A. We was over there talking, and Kanisha played the Usher CD,  
13 and he told me that he was going to April party. And then I  
14 said I didn't want him to go. So once he said, "Turn the CD up,  
15 that's my song," he went over there.

16 Q. He went over where?

17 A. Over there to the car.

18 Q. Which car?

19 A. My uncle.

20 Q. Okay. And so does Kanisha actually get the music going  
21 louder?

22 A. Yes.

23 Q. And does Travon stay to listen to the song?

24 A. Not all of it.

25 Q. What happens -- at some point he doesn't stay for the rest

1 of the song?

2 A. No.

3 Q. Tell us what happens.

4 A. He listened to the song probably for two minutes, and he  
5 came back to me, and he was like I'm about to go get ready to  
6 April party. And I got mad so I had pushed him.

7 Q. Did you hit him or just kind of push him?

8 A. I said (indicating).

9 Q. Why did you do that?

10 A. Because I was mad because I didn't want him to go to the  
11 party.

12 Q. Did you want to go to the party with him?

13 A. No.

14 Q. You just didn't want him to go?

15 A. No.

16 Q. So what happens after you push him? What happens next?

17 A. He walks off.

18 Q. When he walks off, which direction does he walk towards?  
19 Can you show us?

20 A. (Witness complies.)

21 Q. And for the record, you said this way. Grab the microphone  
22 and talk into it if you can. You said this way from the red  
23 dot?

24 A. Yes.

25 Q. In the direction of that speed bump?

1 A. Yes.

2 Q. Now, the direction that you -- the kind of imaginary line  
3 you drew from left to right walking towards that speed bump, you  
4 passed right by that mark you made where --

5 MR. ZUCKER: Objection. Leading.

6 THE COURT: Finish the question.

7 BY MR. LEON:

8 Q. Would pass right by that mark you made, passed right by that  
9 mark you made as to where David parked Boy-Boy's car?

10 A. Yes.

11 Q. And my question is, did Travon pass Boy-Boy's car?

12 A. Yes.

13 Q. And what if anything happened as he passed the car? Was  
14 David still there?

15 A. Yes.

16 Q. Where was he in relation to that car?

17 A. In the back of the car.

18 Q. He was in the back of the car?

19 A. In the back of the white car trying to get in the trunk.

20 Q. And how close is that white car that David is trying to get  
21 in the trunk of to Boy-Boy's car? Can you point to us in the  
22 room like how close they are? Can we see?

23 A. This is the white car and he was parked in between here.

24 Q. For the record, when you said this is the white car, you  
25 pointed to the car on the map, Government's 122.2, which is

1 immedately to the right of the dot you indicated where you and  
2 Kanisha were. Correct?

3 A. Yes.

4 Q. So that was the white car?

5 A. Yes.

6 Q. Okay. And the car that you indicated as Boy-Boy's car that  
7 David parked, that appears to be -- you drew a horizontal line.  
8 By horizontal, it looks like it's going in a different direction  
9 from the white car you indicated. Is that right?

10 A. It was blocking two cars in.

11 Q. Okay. That was my question.

12 You can sit back down.

13 A. (Witness complies.)

14 Q. So what happens as Travon passes Boy-Boy's car?

15 MS. WICKS: Objection. Leading.

16 THE COURT: Overruled.

17 BY MR. LEON:

18 Q. You can answer.

19 A. Can you repeat that again?

20 Q. Sure. You said that Travon told you he was going to April's  
21 and then he walks away?

22 A. Yes.

23 Q. And you said, I believe, just a moment ago that he walked  
24 right by Boy-Boy's car. Correct?

25 A. Yes.

1 Q. Does he stop at Boy-Boy's car or does he continue?

2 A. Continued to walk.

3 Q. He continued. And at that point as he continues, do you see  
4 another vehicle?

5 A. Yes.

6 Q. And describe that vehicle for us.

7 A. It's gray and it's an Expedition.

8 Q. A gray Expedition?

9 A. Yes.

10 Q. And had you seen that gray Expedition before?

11 A. Yes.

12 Q. Whose gray Expedition was it? Whose gray Expedition was it?

13 A. It's Big Ant.

14 Q. Big Ant?

15 A. Yes.

16 Q. Had you seen Big Ant in that gray Expedition before?

17 A. Yes.

18 Q. And how many times would you say you've seen Big Ant in that  
19 gray Expedition?

20 A. Every day.

21 Q. And if you saw Big Ant, would you recognize him?

22 A. Yes.

23 Q. And I'm just going to ask you just one last time if you can  
24 stand and point out Big Ant if you see him in the courtroom.

25 A. He's the guy with the blue shirt with the yellow tie.

1 Q. The gentleman who is standing behind me?

2 A. Yes.

3 MR. LEON: Your Honor, may the record reflect an  
4 in-court identification of Mr. Ball?

5 MR. TABACKMAN: No objection.

6 THE COURT: The request is granted.

7 BY MR. LEON:

8 Q. Now, can we see on this map, first just yes or no, where  
9 that gray Expedition was?

10 A. Yes.

11 Q. I'm going to give you another dot, maybe the last one, and  
12 if you can just put the dot in the approximate area where that  
13 gray Expedition was.

14 A. (Witness complies.)

15 Q. Okay. And for the record, I'm going to give you this pen.  
16 Why don't you put...

17 A. (Witness complies.)

18 Q. What did you put? You wrote "Big Ant." Is that right?

19 A. Yes.

20 Q. Why don't you sit down, and for the record, you put a red  
21 dot and you wrote "Big Ant," and you wrote it on a red dot that  
22 you put right on top of what appears to be a white car which is  
23 near the approximate area where you previously indicated Travon  
24 was killed. Correct?

25 A. Yes.

1 Q. Now, when you see this -- is Travon walking towards that  
2 truck?

3 A. Yes. You mean towards like he going to it?

4 Q. Yeah, let's start there. Did it look like he was walking to  
5 the truck?

6 A. No.

7 Q. Was he walking in the direction of the truck?

8 A. He was walking past the truck.

9 Q. And tell us what happens once Travon is walking past the  
10 truck.

11 A. Travon walked past the truck and the window dropped.

12 Q. The window dropped?

13 A. Yes.

14 Q. Which window?

15 A. Big Ant window.

16 Q. Was that behind the steering wheel?

17 A. Yes.

18 Q. And then what happens?

19 A. Then he fired the shot.

20 Q. Then what?

21 A. Then he fired the shot.

22 Q. Who fired the shot?

23 A. Big Ant.

24 Q. Through that window?

25 A. Yes.

1 Q. And when he fired that shot through the window, where did  
2 that shot go?

3 A. It hit Travon in the head.

4 Q. And did you see this?

5 A. Yes.

6 Q. Did you see it hit Travon in the head?

7 A. Yeah.

8 Q. What did you see Travon -- what if anything happened to  
9 Travon when that shot hit him in the head?

10 A. He fell.

11 Q. And did he fall in the area of where that red dot was you  
12 indicated?

13 A. Yes.

14 Q. What happened next? Take your time.

15 A. Big Ant got out the car and shot him the second time.

16 Q. Did you see Big Ant get out of that car?

17 A. Yes.

18 Q. And when Big Ant got out of that truck, where did he -- what  
19 direction did he walk to?

20 A. Towards Travon.

21 Q. And how close did he get to Travon?

22 A. Right beside him.

23 Q. Right beside him?

24 A. Yeah.

25 Q. And was Travon on the ground at this point?

1 A. Yes.

2 Q. And how many shots had been fired so far?

3 A. Two.

4 Q. That second shot, did you see that second shot fired?

5 A. Yes.

6 Q. When that second shot was fired, who fired it?

7 A. Big Ant.

8 Q. And was Big Ant in the truck behind the steering wheel or  
9 now outside the truck when that second shot was fired?

10 A. Outside the truck.

11 Q. And was Travon on the ground when that second shot was  
12 fired?

13 A. Yes.

14 Q. And describe that second shot.

15 A. He went to him and shot him the second time in his head.

16 Q. Did you see this?

17 A. Yes.

18 Q. Did Travon appear to be moving when Big Ant fired that  
19 second shot?

20 A. No.

21 Q. Do you remember the gun that Big Ant had? Do you remember  
22 anything about it?

23 A. Yes.

24 Q. What do you remember?

25 A. It was black like a police gun.

1 Q. I'm sorry?

2 A. It was black like a police gun.

3 Q. It was black like a police gun?

4 A. Yes.

5 Q. After that second shot is fired, tell us what you do?

6 A. I start screaming.

7 Q. And what happens next? Take your time.

8 A. Then I seen David go over there.

9 Q. You saw David go over where?

10 A. Over there by Travon body.

11 Q. And what did you see David do when he goes over to Travon's  
12 body?

13 A. I heard a shot.

14 Q. You heard what?

15 A. I heard a third shot.

16 Q. We're going to ask you to take your time but we do need you  
17 to talk into that microphone.

18 A. I can't do it.

19 Q. Just take a minute.

20 A. I seen David go over there, and when he went over there, I  
21 heard the third shot.

22 Q. And when you heard that third shot, where was David and  
23 where was Travon?

24 A. Travon was on the ground and David was by Travon.

25 Q. When you say David was by Travon, how close was David to

1       Travon?

2       A.   Right by his face.

3       Q.   Was David standing or doing something else?

4       A.   He was kneeled over a little bit.

5       Q.   Kneeled over whom?

6       A.   Can you repeat that?

7       Q.   Sure. You said David was kneeled over a little bit.

8       Kneeled over towards whom?

9       A.   Travon.

10      Q.   And when David is kneeled over towards Travon, is that when  
11       you hear the shot or is it before then?

12      A.   That's when I hear the shot.

13      Q.   Did Travon appear to be moving when you heard that third  
14       shot?

15      A.   No.

16      Q.   What happens next? Does David stay there or does he leave?

17      A.   No, he left.

18      Q.   Where did he go?

19      A.   Back to the car.

20      Q.   Walking in your direction?

21      A.   Yes.

22      Q.   And as David is walking back towards you in your direction,  
23       do you see anything in either of David's hands?

24      A.   A gun.

25      Q.   He had a gun?

1 A. Yes.

2 Q. Talk right into that microphone if you can.

3 A. Yes.

4 Q. Describe that gun if you can.

5 A. It's black and look like a police gun, but the handle was  
6 bigger.

7 Q. Black like a police gun but the handle was bigger?

8 A. Yeah.

9 Q. Do you say anything to Cool Wop, to David, at this point?

10 A. Yes.

11 Q. What do you say?

12 A. When he came back, he said, "oh, man, he shot." I said,  
13 "what?" He was like, "he shot." So he hurry up, he got in the  
14 car and pulled off.

15 Q. Who got in the car and pulled off?

16 A. David.

17 Q. David got in whose car?

18 A. Boy-Boy car.

19 Q. Did you see this?

20 A. Yes.

21 Q. And did you see the car drive off?

22 A. Yes.

23 Q. This was after that third shot?

24 A. Yes.

25 Q. Was anyone else in the car?

1 A. No.

2 Q. And in what direction did David drive?

3 A. Towards Travon body.

4 Q. In the direction of the body?

5 A. Uh-huh.

6 Q. Did he pass the body?

7 A. Yes.

8 Q. Was the car driving slowly or quickly?

9 A. Fast.

10 Q. When Cool Wop is standing near Travon, kneeling over, is  
11 anyone else near Cool Wop?

12 A. No.

13 Q. You didn't see anybody else?

14 A. No.

15 Q. You mentioned previously that Big Ant was there, and then he  
16 fired that second shot. Do you remember that?

17 A. Yes.

18 Q. Do you know, first just yes or no, do you know where Big Ant  
19 went after that second shot?

20 A. Yes.

21 Q. Where?

22 A. Over there by the grass.

23 Q. Over there by the what?

24 A. Grass.

25 Q. Can we see the grassy area where Big Ant went to?

1 A. Yes.

2 Q. I'm going to ask if you can step down. I think this will be  
3 the last time. Take a pen, please, and just make a mark for us  
4 in the approximate area where that grass is where you saw Big  
5 Ant after that second shot.

6 A. (Witness complies.)

7 Q. For the record, looks like you made a circle just about a  
8 quarter of an inch, directly on top of where you wrote the TO,  
9 the dot where you said Travon was killed. Correct?

10 A. Yes.

11 Q. And it appears to be just a little bit to the right and  
12 above that, what appears to be a speed bump. Correct?

13 A. Yes.

14 Q. Okay. You can sit down.

15 A. (Witness complies.)

16 Q. When Big Ant goes over to that grassy area, do you see what  
17 he's doing?

18 A. Looking in the grass.

19 Q. Looking in the grass?

20 A. Yes.

21 Q. Is there anything near the grass that you saw?

22 A. I know it's a -- I mean, a little sidewalk.

23 Q. There's a sidewalk and there's grass?

24 A. Yes.

25 Q. Is there a fence around there?

# EXHIBIT Z

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :  
:  
Plaintiff, : Docket No. CR 05-100  
:  
v. :  
:  
ANTWUAN BALL, DAVID WILSON, : Washington, DC  
GREGORY BELL, DESMOND :  
THURSTON, JOSEPH JONES, and : June 20, 2007  
DOMINIC SAMUELS, : 9:16 a.m.  
:  
Defendants. :  
:  
:

VOLUME 70 - MORNING SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS  
UNITED STATES DISTRICT COURT JUDGE, and a JURY

APPEARANCES:

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1 A. My son.

2 Q. What's your son's name?

3 A. Anthony O'Brien.

4 Q. And what happened then when you were on the phone?

5 A. I heard three gunshots.

6 Q. What did you do when you heard the shots?

7 A. I tried to get out the door to get to my daughter, but my  
8 daughter was stuck.

9 Q. So you said you tried to get out the door to get to your  
10 daughter. Where -- which door were you trying to get out of?

11 A. The back door.

12 Q. Okay. And if I could just have you step down and kind of  
13 show where -- which side of the building the back door is on.

14 A. (Indicating.)

15 Q. And again, you're pointing to that red dot right there at  
16 the right of that horseshoe; is that correct?

17 A. Yes.

18 MR. CARNEY: Your Honor, I object to the leading exhibit.

19 THE COURT: Overruled.

20 BY MS. PETALAS:

21 Q. You may resume the stand.

22 And you said you heard shots and you went out the back  
23 door?

24 A. Yes.

25 Q. Who -- was it just you? Anybody else?

1 A. My cousin, Gloria Bimbo.

2 THE COURT REPORTER: I'm sorry. Say the last name again.

3 THE WITNESS: Gloria Bimbo.

4 BY MS. PETALAS:

5 Q. And where were you trying to go when you went out the  
6 door?

7 A. To get to my daughter.

8 Q. And where at that point, in your mind, did you think that  
9 your daughter was?

10 A. Beside the car.

11 Q. Beside whose car?

12 A. My brother's.

13 Q. And where was your brother's car?

14 A. Parked out back in the parking lot.

15 Q. And how many shots did you hear?

16 A. Three.

17 Q. And when did you hear these three shots? Were they all  
18 in a row or were you still on the phone when you heard all three  
19 of them or what happened?

20 MR. CARNEY: Objection.

21 MR. TABACKMAN: Objection.

22 THE COURT: Sustained.

23 BY MS. PETALAS:

24 Q. Tell us how you heard the shots and where you were when  
25 you heard each of those shots?

1 MR. BALAREZO: Objection, compound.

2 THE WITNESS: I was standing --

3 THE COURT: Why don't you rephrase.

4 BY MS. PETALAS:

5 Q. You said you heard three shots. Where were you when you  
6 first started hearing the shots?

7 A. In the front room.

8 Q. Okay. And where were you when you heard the second --  
9 were you still on the phone at that point?

10 MR. BALAREZO: Objection.

11 THE WITNESS: No, I dropped the phone.

12 THE COURT: Hold on a second. What was the question?

13 BY MS. PETALAS:

14 Q. Were you still on the phone at that point?

15 THE COURT: Go ahead.

16 THE WITNESS: Yes.

17 BY MS. PETALAS:

18 Q. Okay. And what did you do when you heard that shot?

19 A. I dropped the phone.

20 Q. Okay. You said you heard a second shot. How soon after  
21 the first shot did you hear the second shot?

22 MR. TABACKMAN: Objection, leading.

23 THE COURT: Overruled.

24 BY MS. PETALAS:

25 Q. You can answer.

1 A. Can you repeat that?

2 Q. Sure. You said you heard three shots. I'm going through  
3 each of the shots. We talked about the first shot and you said  
4 you heard the second shot. How soon after the first shot did  
5 you hear the second shot?

6 A. A second.

7 Q. And where were you when you heard that second shot?

8 A. Trying to get out the back door.

9 Q. And then finally you talked about a third shot. How soon  
10 after the second shot did you hear the third shot?

11 A. About a second apart.

12 Q. And where were you then when you heard this third shot?

13 A. Still trying to get out the door.

14 Q. You said trying to get out the door. Did you have some  
15 difficulty in getting out the door?

16 A. Yes. My door was stuck.

17 Q. What do you mean, your door was stuck?

18 A. My wood on my back door was swollen from the rain.

19 Q. So were you able to get the door open?

20 A. Yes.

21 Q. And what happened after you got the door open?

22 A. I ran down the steps.

23 Q. And which direction are you running?

24 A. Straight down the steps to make a right.

25 Q. Okay. I'm going to have you, if you could, just get off

1 the stand and show us where you were running.

2 A. (Indicating.)

3 Q. Okay. And for the record, you pointed from that red dot  
4 kind of down a walkway leading down, directly down the  
5 photograph; is that correct?

6 A. Yes.

7 MR. BALAREZO: Your Honor, objection. Can we approach?

8 THE COURT: Beg your pardon?

9 MR. BALAREZO: Could I approach?

10 THE COURT: Yes.

11 (Following sidebar discussion had on the record:)

12 MR. BALAREZO: Your Honor, I don't know what the exhibit  
13 number is that's up there with this witness now.

14 THE COURT: She listed what the exhibit number is.

15 MR. BALAREZO: The thing -- I'm objecting to the use of  
16 the exhibit number with this witness because they're going to be  
17 talking about the same --

18 THE COURT: Because what?

19 MR. BALAREZO: She's going to be testifying about the same  
20 subject matter that Brittany O'Brien testified about and she put  
21 all these tags and red dots on the map and it's basically  
22 suggesting to this witness things that the other witness has  
23 testified about. So what I would suggest is the government use a  
24 clean exhibit to go over it with this witness.

25 THE COURT: Anything else?

1 MR. CARNEY: She said 122.2 and my objection is it's  
2 leading because the witness has used and marked the location on  
3 the same thing, so it's a leading form of exhibit. And I move  
4 for a mistrial because it's setting forth these central facts,  
5 which this is a critical case, critical witness, and it goes to  
6 the essential nature of her testimony. So I object on use of  
7 that exhibit.

8 THE COURT: Anything else?

9 MS. PETALAS: No.

10 THE COURT: The objection is overruled and motion for a  
11 mistrial is overruled -- is denied, rather.

12 What else did you ask for?

13 MR. BALAREZO: I just objected to the exhibit.

14 THE COURT: All right. And the government may use that  
15 exhibit and all of those issues can be explored on cross, if  
16 necessary. The red dots have apparently some kind of a ballpoint  
17 pen marking. They're very small. The witness was not asked to  
18 read the dots. The markings on the dots the previous witness was  
19 able to see, and I think you all were able to see, only by going  
20 right up and looking to see what was on the red dots.

21 But all that can be explored on cross-examination. So the  
22 motion for mistrial is denied. It's baseless. The request --  
23 the objection to use of the exhibit is denied.

24 I think I've covered everything, right?

25 MR. BALAREZO: Thank you.

1 (Sidebar discussion concluded.)

2 BY MS. PETALAS:

3 Q. Ma'am, you talked about -- you showed on the map where  
4 you went. What happened when you went down that sidewalk that  
5 you showed us? What did you see?

6 A. I seen Cool Wah leaving the body.

7 Q. Okay. And you said "Cool Wah." Who's "Cool Wah"?

8 A. He's behind you. He's behind you.

9 Q. You said he's behind me?

10 A. Yes.

11 Q. Do you see him?

12 A. Yes.

13 Q. Could you identify by where he's sitting or an article of  
14 clothing.

15 A. He's with the blue shirt on, dark blue shirt, behind you.  
16 Light-skinned fellow.

17 Q. And what color tie? What color tie, can you see?  
18 You can stand up.

19 A. I think that's beige or white.

20 Q. You said a dark blue shirt?

21 A. Um-hmm.

22 Q. Is he wearing a suit jacket or no?

23 A. No.

24 MS. PETALAS: Your Honor, may the record reflect an  
25 in-court identification of Mr. Wilson?

1 MS. WICKS: No objection.

2 THE COURT: Request is granted.

3 BY MS. PETALAS:

4 Q. You said he was leaving the body. What do you mean,  
5 "leaving the body"? What body?

6 A. The body of a young man that was on the ground dead.

7 Q. Okay. Did you know the young man that was on the ground?

8 A. No.

9 Q. Did you know who he was?

10 A. No, until later on that night.

11 Q. Okay. And we'll get to that later. So you see --  
12 where -- do you see the body when you come out?

13 A. Not exactly, until I turned to go towards the alley part.

14 Q. You said until you turned to go to the alley. What do  
15 you mean, "turn"?

16 A. When I come down my steps and make a right.

17 Q. I'm sorry to have you keep getting up, but if you could  
18 just kind of point to on the map where you were when you said  
19 you turned.

20 A. (Indicating.)

21 Q. Are you talking about the turn directly after the red dot  
22 or down further in the alley?

23 A. After the red dot.

24 Q. Is that after the red dot or further down in the alley?

25 A. About right here (indicating).

1 Q. Okay. And for the record, you've placed -- you're  
2 pointing to, directly, right where the cars are parked there?

3 A. Yes.

4 Q. Okay. You can resume the stand. Okay. And when -- how  
5 close were you to where those parked cars are when you first saw  
6 Cool Wah?

7 A. I saw him before I got to the car.

8 Q. Okay. And what was he doing when you saw him?

9 A. Going towards the car door?

10 Q. Towards what car door?

11 A. Boy-Boy's car.

12 Q. You said Boy-Boy's car. Could you describe the car?

13 A. I don't know the model or name of the cars.

14 Q. Do you remember what color it was?

15 A. It was -- I ain't for sure. I think it's gold.

16 Q. Okay. Is it a two-door? Four-door?

17 A. Four-door.

18 Q. I'm sorry?

19 A. Four-door.

20 Q. Okay. And you're saying "car." A car as opposed to a  
21 truck?

22 A. No, it's a car.

23 Q. Okay. And you referred to it as "Boy-Boy's car." Why do  
24 you call it Boy-Boy's car?

25 A. Because that's who I be seeing drive it.

1 Q. And how -- you said -- how many times had you seen  
2 Boy-Boy drive this car?

3 A. Every day.

4 Q. And what happens -- what is -- is Cool Wah, when you  
5 first see him, is he in the car or is he -- what is he doing  
6 exactly?

7 A. He's walking towards the car.

8 MS. WICKS: Objection.

9 THE COURT: Hold on one second. Let me hear the  
10 objection.

11 MS. WICKS: Asked and answered.

12 THE COURT: Overruled.

13 BY MS. PETALAS:

14 Q. What is he doing?

15 A. Walking towards the car.

16 Q. You say walking. How fast was he walking?

17 A. Not fast.

18 Q. Did you see anything in his hand at that point?

19 A. Yes.

20 Q. What did you see in his hand?

21 A. A gun.

22 Q. Could you tell what kind of gun it was?

23 A. I don't know the name of them guns.

24 Q. Was it a revolver? An automatic? Do you know the  
25 difference?

1 A. No.

2 Q. What color was it?

3 A. I couldn't really tell what color it was.

4 Q. And what did you do when you saw Cool Wah walking?

5 A. I went towards the opposite way to go get my daughter  
6 Brittany.

7 Q. And how close did you get to -- how close did Cool Wah  
8 get to you?

9 A. Not that close.

10 Q. Can you point to maybe a spot in the courtroom on the  
11 distance?

12 A. On the board?

13 Q. Oh, no. Just in the courtroom. Like, was Cool Wah  
14 closer -- closer than I am to you or further back?

15 A. Further back.

16 Q. Okay. Do you see a point in the courtroom that you can  
17 point to of how close Cool Wah got to you?

18 A. About where the lady with the beige sitting at.

19 Q. Right here (indicating)?

20 A. Um-hmm.

21 MS. PETALAS: Your Honor, may the record reflect -- I  
22 don't know if there's a measurement for approximately the witness  
23 stand, looks like to the front wall.

24 THE COURT: Approximately 28 and a half feet.

25 MS. PETALAS: Thank you, Your Honor.

1 BY MS. PETALAS:

2 Q. And could you see Cool Wah's face?

3 A. Yes.

4 Q. Could you at any point see whether or not he appeared to  
5 be looking at you?

6 A. No.

7 Q. Did you make eye contact with Cool Wah?

8 A. Yes.

9 Q. And did you -- did he say anything to you?

10 A. No.

11 Q. Did you say anything to him?

12 A. No.

13 Q. And what then did you see him do?

14 A. Get in the car.

15 Q. And what -- did you see what he did after he got in the  
16 car?

17 MS. WICKS: Objection, leading.

18 THE COURT: Overruled.

19 BY MS. PETALAS:

20 Q. What happened after he got in the car?

21 A. He pulled off.

22 Q. And which direction was the car facing?

23 A. The (indicating) -- the alley, upwards.

24 Q. Okay. And I'm just going to take that a step back. The  
25 car that he got in, was it moving at the time that -- before he

1 got in it?

2 A. No, it wasn't moving at all.

3 Q. Okay. And where was it parked?

4 I'm going to have you step down. If you could just point  
5 to us, where it was parked.

6 A. (Indicating.)

7 MS. WICKS: Same objection, Your Honor, for the record.

8 THE COURT: Same as what?

9 MS. WICKS: The previous objection at the bench.

10 THE COURT: Overruled.

11 BY MS. PETALAS:

12 Q. And you're pointing to a spot on the map. I'm just going  
13 to hand you a red dot.

14 MS. PETALAS: May I approach, Your Honor?

15 THE COURT: Yes.

16 BY MS. PETALAS:

17 Q. I'm going to ask you just to place this where you were  
18 pointing to right there.

19 A. (Complied.)

20 Q. I'm going to also hand you a pen. If you could just  
21 write on there "car" or -- maybe "car." And then initial it at  
22 the bottom.

23 And which direction -- was it in a parking space or --

24 A. No.

25 Q. Where was it?

1 A. Facing towards the body.

2 Q. Okay. And if I could just have you use that microphone  
3 so everybody can hear you.

4 You said it was facing towards the body. Is that towards  
5 the right, looking towards the right of the photograph or the  
6 left as you're staring at it?

7 A. The right.

8 Q. Okay. And you can get back -- resume the stand. Thank  
9 you.

10 And once it -- did you see it leave the alley?

11 A. Yes.

12 Q. And you said it was facing towards the body. Which way  
13 did it go?

14 A. It went straight where I had just put that red dot.

15 Q. Okay. So did it go in the direction of the body?

16 A. It went around the body.

17 Q. And had you seen this individual Cool Wah before?

18 A. Yes.

19 Q. How often did you see him?

20 A. Every other day.

21 Q. And how -- where would you see him?

22 A. I'd go to the truck or I'd go to the store or I'd go look  
23 for my kids.

24 Q. You said you would go to the truck. What truck are you  
25 referring to?

1 A. The ice cream truck.

2 Q. You also mentioned an individual Boy-Boy. Who is  
3 Boy-Boy?

4 A. He's behind you.

5 Q. Okay. You can get up. If you could identify --

6 A. He's with the white shirt on.

7 Q. What color tie?

8 A. Red.

9 Q. Is that the individual standing up?

10 A. Yes.

11 MS. PETALAS: Your Honor, may the record reflect an  
12 in-court identification of Mr. Bell?

13 MR. BEANE: No objection.

14 THE COURT: Request is granted.

15 BY MS. PETALAS:

16 Q. And how did you know Boy-Boy?

17 A. His mother lived right behind me.

18 Q. And when this occurred, was this during the day or at  
19 night?

20 A. At night.

21 Q. And what was the lighting like back there?

22 A. I mean, it had a little light, but you could see.

23 Q. Could you see Cool Wah's face?

24 A. Yes.

25 Q. And how sure are you that it was Cool Wah?

# EXHIBIT AA

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :  
:  
Plaintiff, : Docket No. CR 05-100  
:  
v. :  
:  
ANTWUAN BALL, DAVID WILSON, : Washington, DC  
GREGORY BELL, DESMOND :  
THURSTON, JOSEPH JONES, and : May 3, 2007  
DOMINIC SAMUELS, : 2:10 p.m.  
:  
Defendants. :  
:  
:

VOLUME 45 - AFTERNOON SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS  
UNITED STATES DISTRICT COURT JUDGE, and a JURY

APPEARANCES:

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Antwuan Ball: CARNEY & CARNEY  
John James Carney, Esq.  
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202.434.8234

1 MR. TABACKMAN: And that's my point.

2 THE COURT: Anything else?

3 MR. LEON: No.

4 THE COURT: The point there is there's nothing wrong with  
5 you going back and saying, just impeaching with, did he say X,  
6 did he ask X. Either he did or he didn't. Either she remembers  
7 or she doesn't. Either she admits it or she denies it and then  
8 you can -- then you can follow up, if necessary, after that.

9 But there's nothing wrong -- I think Mr. Tabackman's point  
10 is simply that the broad question, did he say anything else  
11 doesn't fairly allow her an opportunity to be confronted with her  
12 prior statement that he also said to me, or he also said to  
13 Tanay, did you see the -- whatever that says. Is that a fair --

14 MR. TABACKMAN: Yeah, and --

15 THE COURT: So, put your -- put the question with greater  
16 specificity, then simply, did he say anything else?

17 MR. TABACKMAN: The question is, to say that -- there's no  
18 answer to what did Shanay tell him.

19 THE COURT: I know that.

20 MR. TABACKMAN: Okay.

21 MR. LEON: Okay.

22 (Sidebar discussion concluded.)

23 BY MR. LEON:

24 Q. Ms. Ryals, during this first conversation that -- after  
25 the shooting that you and Shanay and Tanay had with Big Ant,

1 still on that first conversation, do you remember if Big Ant  
2 asked Shanay, in your presence, whether or not she, Shanay, saw  
3 the shooting?

4 A. Yes.

5 Q. And did Big Ant ask Shanay if she witnessed the shooting?

6 A. Yes.

7 Q. And was this the same conversation when Big Ant told you  
8 and Shanay and Tanay not to talk to nobody?

9 A. Yes.

10 Q. Did -- I believe the record's clear, but let me make sure  
11 it is. Did you, yourself, eyewitness this shooting?

12 A. No.

13 Q. Do you remember if you said that to Big Ant at any point?

14 A. Yes.

15 Q. And you told him you didn't see the shooting?

16 A. Yes.

17 Q. Now, do you remember approximately the next day having  
18 another conversation with Big Ant and Tanay and Shanay regarding  
19 the shooting?

20 A. I don't know, maybe.

21 Q. Okay. I'm going to ask if you can turn to page 28 of  
22 your transcript. And I'm going to ask you to look first at page  
23 28, line 16, and if you could look, start there and read all the  
24 way down to the end of page 29.

25 A. All the way to which number?

1 Q. If you can keep reading all the way down to the end of  
2 page 29, and then actually also read to page 30 and through page  
3 30, if you could.

4       Okay. Are you done? Do you remember during this  
5 conversation, the second conversation that you had with Big  
6 Ant -- first of all, do you remember who else was present during  
7 this conversation?

8 A. Me and Shanay and Tanay.

9 Q. Okay. And was this a conversation that happened in  
10 person? In other words, not over the phone, but where  
11 everyone's looking and listening at each other?

12 A. Yes.

13 Q. Okay. And during this conversation, do you remember  
14 Big Ant saying something to you, you Toya?

15 A. Uhn-uhn, no.

16 Q. Okay. I'm going to ask if you could turn to page 29.

17 A. I'm on page 29.

18 Q. Okay. And I'm going to start reading on line 13. And  
19 tell me if I'm reading correctly.

20       MR. TABACKMAN: Which page is this?

21       MR. LEON: Counsel, 29, line 13.

22 BY MR. LEON:

23 Q. "Question: Well, do you remember, did she -- did he ever  
24 say to you, you know, don't say anything?"

25       "Answer: He was telling me -- yeah, he told -- yeah, he

1 was telling her -- all of us, just don't -- just be quiet, don't  
2 talk to people. Yeah, like that, don't talk to people."

3 "Question: Okay. Did he say people as a whole or police  
4 or prosecutors or just don't talk to anybody?"

5 "Answer: No, he said 'don't talk to nobody'."

6 "Question: Okay. And when he was telling that to you,  
7 it sounds like Shanay was with you; is that right?"

8 "Um-hmm."

9 "Question: Is that "yes"?"

10 "Answer: Yes."

11 "Question: And were other people standing there with you  
12 at that time?"

13 "Answer: No. Probably me, Shanay and Tanay."

14 "Question: Okay. So you think Tanay was present as  
15 well?"

16 "Answer: Yes." And then there's a final question.

17 "Question: Okay. Did he actually ask Shanay and Tanay if  
18 they saw the shooting?"

19 "Answer: I don't remember."

20 And that finished up on page 30, line 8. Did I read that  
21 correctly?

22 A. Yes.

23 Q. And that was your grand jury testimony? Yes?

24 A. Yes.

25 Q. Now, during this second conversation when Big Ant said

1 did stop going around Congress Park. That's what I'm trying to  
2 elicit. And this witness is -- perhaps my predicate question  
3 could have been clearer as is often the case, but that's all I'm  
4 trying to go to. She observed and she heard Shanay say, let's  
5 not go back to Congress Park for a while, and that's where I'm  
6 trying to go.

7 So that's where I'm trying to go. So I think it is fair  
8 to say, do you know if -- I could say it like, do you know if  
9 they took that instruction seriously? I mean, anyway I ask it,  
10 it's going to be objected to. I'm trying to think -- that's  
11 where I'm trying to go.

12 THE COURT: I think I'll allow you to ask a question that  
13 would elicit from her, her perception of their demeanor, like  
14 were they happy, sad, frightened, blah-blah-blah, rather than  
15 their comment. If you can do that, I'll let you do that.

16 MR. TABACKMAN: Your Honor, that is grossly unfair.

17 THE COURT: To elicit perception of their demeanor?

18 MR. TABACKMAN: They had those witnesses on the stand.  
19 They never asked them a question about Mr. Ball and their  
20 interaction with Mr. Ball because they knew those witnesses were  
21 not saying, you know, anything about this.

22 THE COURT: There's no improper evidentiary basis for him  
23 to ask this witness about their perception with these two other  
24 witnesses.

25 MR. TABACKMAN: But, Your Honor --

1 THE COURT: Anything else? Overruled.

2 (Sidebar discussion concluded.)

3 BY MR. LEON:

4 Q. Okay, Ms. Ryals. During this second conversation that  
5 you had with Big Ant where Shanay and Tanay were present, after  
6 Big Ant, Antwuan, said those things to you and them, how did  
7 Shanay seem to you?

8 A. Uhm, she was just -- she was the same as she was. She  
9 was just scared.

10 Q. I couldn't --

11 A. Scared.

12 Q. And why do you say that?

13 A. I don't know, maybe because she was back there. I don't  
14 know. And people knew she was back there.

15 Q. And what about Tanay, how did Tanay seem to you after  
16 Big Ant said that?

17 A. The same way.

18 Q. Which is what?

19 A. Scared.

20 Q. After Big Ant, Antwuan, said these things to the three of  
21 you, did -- do you know -- first just yes or no -- if Shanay  
22 kept coming back to Congress Park?

23 A. Kept coming back?

24 Q. If you don't understand the question, I can ask a better  
25 one.

1 A. No, I understand. I just don't -- I don't remember. I  
2 think so, yeah. I can't remember.

3 Q. Well, let me ask you this: Do you know at that time,  
4 August of 2002, where Shanay lived? Did she live in Congress  
5 Park?

6 A. I can't remember.

7 Q. You can't remember? Okay.

8 What about Tanay? Do you know if Tanay lived in Congress  
9 Park?

10 A. Yes.

11 Q. And at the time that Big Ant, Antwuan, had this second  
12 conversation with you, did the three of you, Shanay, Tanay and  
13 yourself, spend time in Congress Park --

14 A. Yes.

15 Q. -- hanging out?

16 A. Yes.

17 Q. Do you know somebody -- or did you know somebody back in  
18 August of 2002 named Ivy?

19 A. Named who?

20 Q. Ivy. If the answer is no, you can say no.

21 A. No.

22 Q. Okay. Do you know -- do you remember when we looked at  
23 that map of Congress Park and we saw your house on it?

24 A. Yes.

25 Q. Was Tanay's house on that map? Do you remember --

# EXHIBIT BB

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :  
:  
Plaintiff, : Docket No. CR 05-100  
:  
v. :  
:  
ANTWUAN BALL, DAVID WILSON, : Washington, DC  
GREGORY BELL, DESMOND :  
THURSTON, JOSEPH JONES, and : May 8, 2007  
DOMINIC SAMUELS, : 9:20 a.m.  
:  
Defendants. :  
:  
:

VOLUME 47 - MORNING SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS  
UNITED STATES DISTRICT COURT JUDGE, and a JURY

APPEARANCES:

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States Attorney,  
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For Defendant  
Antwuan Ball: CARNEY & CARNEY  
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202.434.8234

1 THE COURT: I'll allow it.

2 THE WITNESS: Uhm, I can't remember if I told him. I  
3 think I -- I can't remember -- I can't flat out -- to be honest,  
4 I can't flat out remember if I told him I was cooperating, but I  
5 told him dudes was cooperating on him.

6 MR. CARNEY: Your Honor, objection, narrative answer.

7 THE COURT: I'll allow it.

8 THE WITNESS: And I was telling him the dudes was  
9 cooperating on him. And he was like --

10 BY MS. PETALAS:

11 Q. After you told him that the people were cooperating on  
12 him, what did he say?

13 A. He was like, "You letting them people put words in your  
14 mouth, you bitch ass nigga, I hope you die. I'll blow your head  
15 off when I see you."

16 Q. Is this what he was saying to you on the phone?

17 A. Yeah, "Don't call me no more. You fucking with them  
18 peoples." And I was like, "Twan, man, I ain't even fucking with  
19 the people. I ain't saying nothing about you man." He was  
20 like, "Fuck you, die." Click. "Don't ever call me no more."  
21 And that conversation, he blocked his number.

22 Q. When you say "blocked his number," what do you mean by  
23 that?

24 A. I couldn't call his house no more.

25 Q. And when you couldn't call his house anymore, did you

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, : Docket No. CR 05-100  
: :  
Plaintiff : :  
v. : Washington, DC  
: :  
ANTWUAN BALL, : :  
DAVID WILSON, : :  
GREGORY BELL, : May 8, 2007  
DESMOND THURSTON, : :  
JOSEPH JONES, : :  
DOMINIC SAMUELS, : :  
: :  
Defendants : 1:30 p.m.  
\* \* \* \* \* : \* \* \* \* \*

VOLUME 47 - AFTERNOON SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS,  
UNITED STATES DISTRICT JUDGE, and a jury

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1 Q. Okay. You said up on the lane?

2 A. Kairi.

3 Q. Up in the lane, which lane?

4 A. Langston Lane.

5 Q. And how did you meet Deuce from Langston Lane?

6 A. I met Deuce from like way -- I met Deuce when Kairi was  
7 living. The first time I met Deuce, the day Kairi -- as a  
8 matter of fact, me and my sister and Shara (ph) was riding down  
9 to go to her house, and Big Ki was in the car behind us. That's  
10 the first day I met Deuce.

11 Q. Well, you said Big Ki was in the car behind you. Was Deuce  
12 with him?

13 A. No, he was getting out of jail.

14 Q. Who was getting out of jail?

15 A. Big Ki was getting out of jail and we went to Wellington  
16 Park. That's the first day I met Deuce.

17 Q. And when you met Deuce, who introduced you to Deuce? How  
18 did you meet Deuce?

19 A. Big Ki. They was right there.

20 Q. And did you ever see -- you said Deuce was from the lane.  
21 Did you ever see Deuce around Congress Park?

22 A. Yes.

23 Q. And who would you see him with when you saw him around  
24 Congress Park?

25 A. Twuan, Jojo, any of us. He hang with any of us.

1 Q. And when you had -- tell us about this conversation you had  
2 in the alley. What was the conversation? What if anything did  
3 Antwuan say?

4 A. He was like, "We going to have to kill anybody we think  
5 that's going to tell when they come, before they come."

6 Q. Well, what do you mean by that, "Anybody that's going to  
7 come, before they come." What are you talking about?

8 A. Anybody we thought that was going to tell, Twuan was like,  
9 "We need to kill them before they bring this conspiracy."

10 Q. And did anybody -- did anyone who was at that meeting  
11 express any disagreement with that thought?

12 MR. ZUCKER: Objection to the term "meeting."

13 THE COURT: Overruled.

14 BY MS. PETALAS:

15 Q. Did anybody express any disagreement with that idea?

16 A. Nope.

17 Q. Did you express any disagreement with the idea?

18 A. Nope.

19 Q. Were you okay with that idea?

20 A. Yes.

21 Q. And you mentioned the term "conspiracy." What do you mean,  
22 "if they bring the conspiracy." Did you have information about  
23 a conspiracy coming?

24 A. Naw, I ain't have information then about a conspiracy.

25 Q. You've talked about Boy-Boy, and referred to his alley. Why

# EXHIBIT CC

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, : Docket No. CR 05-100  
: :  
Plaintiff : :  
v. : Washington, DC  
: :  
ANTWUAN BALL, : :  
DAVID WILSON, : :  
GREGORY BELL, : May 17, 2007  
DESMOND THURSTON, : :  
JOSEPH JONES, : :  
DOMINIC SAMUELS, : :  
: :  
Defendants : 1:15 p.m.  
\* \* \* \* \* : \* \* \* \* \*

VOLUME 52 - AFTERNOON SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS,  
UNITED STATES DISTRICT JUDGE, and a jury

APPEARANCES:

For the United States: ANN H. PETALAS, ESQUIRE  
GLENN S. LEON, ESQUIRE  
GIL GUERRERO, ESQUIRE  
UNITED STATES ATTORNEY'S OFFICE  
555 Fourth Street, NW  
Washington, D.C. 20530

For the Defendant  
Antwuan Ball: JOHN JAMES CARNEY, ESQUIRE  
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601 Pennsylvania Avenue, NW  
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(202) 434-8234

STEVEN CARL TABACKMAN, ESQUIRE  
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1 A. I can't remember how many, but a particular day he was  
2 saying to LT --

3 Q. I'll stop you there. I just want to establish a time frame.  
4 Do you remember a particular conversation that you had with  
5 Antwuan about a conspiracy case?

6 A. Yes.

7 Q. And was LT there?

8 A. Yes.

9 Q. Anyone else there other than you, LT, and Antwuan?

10 A. No.

11 Q. And to the best of your memory, where was this conversation?  
12 Where were you physically?

13 A. We was driving.

14 Q. In what vehicle?

15 A. His Expedition.

16 Q. Was this the same conversation when Antwuan said he was  
17 going to smash Travonne?

18 A. Yes.

19 Q. And so again, you were driving that vehicle?

20 A. Yes. And he basically said -- told LT to hurry up, he  
21 needed to hurry up and get out the halfway house so he could  
22 start getting rid of some of the guys that he thought was going  
23 to flip.

24 Q. Who said that?

25 A. Antwuan.

1 Q. Did Antwuan mention anyone in particular?

2 A. Naw, he basically thought that Jazz and Santuce and Dazz and  
3 them was going to be the first to flip.

4 Q. That's what Antwuan told you?

5 A. And Boy-Boy, yes.

6 Q. Now, who actually -- was the word "conspiracy" or  
7 "conspiracy case" used during this conversation?

8 A. Yes. He said a guy by the name of Munya was calling home,  
9 saying that the feds was on they way, they was getting ready to  
10 drop a conspiracy.

11 Q. Do you know who Munya is?

12 A. Yes.

13 Q. Who is Munya?

14 A. He's a guy that comes from around Congress Park.

15 Q. How do you know Munya?

16 A. Basically grew up with him too, around there.

17 Q. Did you speak to Munya or did Antwuan speak to Munya?

18 A. It was never said who spoke to him. It was like he was  
19 calling home saying it, to whoever, I don't know.

20 Q. But who said that Munya is calling home?

21 A. I don't know. Antwuan said that he was calling out there  
22 saying it, but he never said he had talked to him per se.

23 Q. I see. And let's focus on you. When is the last time you  
24 yourself have seen Munya?

25 A. About two years -- yeah, about two years ago.

1 Q. Where were you, where was he?

2 A. We was in county jail.

3 Q. County jail where?

4 A. Arlington.

5 Q. So two years ago would be about 2005 or so?

6 A. Right.

7 Q. How long were you and Munya together at Arlington?

8 A. He was on two different blocks. We was on two different  
9 blocks for a minute, so --

10 MR. BALAREZO: Objection, nonresponsive.

11 THE COURT: Sustained.

12 A. I don't know.

13 BY MR. LEON:

14 Q. Okay. How many times did you see, lay eyes on Munya when  
15 you were in Arlington?

16 A. It was a lot.

17 Q. Did you hang out with him?

18 A. No.

19 Q. Did you ever talk to him about a conspiracy case?

20 A. Yeah, he said it was a conspiracy case coming.

21 Q. And that was in 2005 or so?

22 A. Yes. But he never got into the specifics of the case.

23 Q. Why?

24 MR. BALAREZO: Objection.

25 MR. ZUCKER: Objection. Actually, withdrawn. I

1 withdraw mine. I don't know about Balarezo.

2 THE COURT: I didn't hear two. Were there two?

3 THE REPORTER: I didn't, either.

4 THE COURT: I didn't, either. Go ahead.

5 BY MR. LEON:

6 Q. Why didn't you get into specifics with him?

7 A. We wasn't that tight, you know. I knew what he was out  
8 there for, you know, and he knew what I was out there for. We  
9 wasn't that tight.

10 Q. Now, in 2005, when you were in Arlington, had you and I ever  
11 met before?

12 A. No.

13 Q. Had you talked -- well, withdrawn. Withdraw that.

14 What else, if anything, did Antwuan say, just about the  
15 conspiracy case, if anything?

16 A. That was it. That was it, that I can remember.

17 Q. What else, if anything, did LT say in response to Antwuan  
18 when Antwuan said words to the effect of, "You got to get out of  
19 that halfway house soon so we can do these things"?

20 A. He was like, "All right." He was like, "Okay," you know.

21 Q. Did you say anything?

22 A. Naw, I was just listening. I think it ain't really dawn on  
23 him that I was -- I think he was more so venting at the time. I  
24 don't think it dawned on him that I was in the truck at the  
25 time, you know.

# EXHIBIT DD

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, : Docket No. CR 05-100

: Plaintiff :

v. : Washington, DC

ANTWUAN BALL, :  
DAVID WILSON, :  
GREGORY BELL, : May 31, 2007  
DESMOND THURSTON, :  
JOSEPH JONES, :  
DOMINIC SAMUELS, :

Defendants : 9:15 a.m.

• • • • • : • • • • •

VOLUME 59 - MORNING SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS,  
UNITED STATES DISTRICT JUDGE, and a jury

APPEARANCES:

For the United States: ANN H. PETALAS, ESQUIRE  
GLENN S. LEON, ESQUIRE  
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Washington, DC 20006  
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1 MR. LEON: Permission to approach?

2 THE COURT: Yes.

3 BY MR. LEON:

4 Q. Detective, you said that you conducted a photo  
5 identification procedure on March 8th, 1994 --

6 A. Yes.

7 Q. -- with Mr. Carter. Is that correct?

8 A. Yes.

9 Q. And the exhibits that are now in evidence, you said were the  
10 photographs you showed to him?

11 A. That's correct.

12 Q. I'm going to ask you -- I've got the exhibits here. First  
13 of all, on Government's 400.9, were they put in a certain order?

14 A. Yes, they were.

15 Q. And did you record that order?

16 A. Yes, I did.

17 Q. One through nine?

18 A. Yes.

19 Q. And is it possible for you, as you sit here today 13-plus  
20 years later, to know the exact order that they were shown to  
21 Mr. Carter?

22 A. Yes.

23 Q. Why is that?

24 A. Because I documented the order they were shown.

25 Q. Okay. And recorded it in what way?

1 A. From the numbers on the photograph, as well as the dates  
2 that are on the photographs.

3 Q. Okay. Before we publish these to the jury, can you tell  
4 us -- I apologize if you did already, I don't know if you did,  
5 how you chose which photographs to put in this array?

6 A. Basically sex, race, skin complexion, hair, some physical  
7 descriptions. It depends on how people are described.

8 Q. And what is your goal, if any, in deciding which -- based on  
9 those characteristics, which photographs to choose for these  
10 nine photos?

11 A. No, just that it's fair, that it's very fair and impartial,  
12 that one photograph does not stand out more than the others.  
13 That's your ultimate goal, that it's a very fair and impartial  
14 set of photos.

15 Q. I would like you to take us one by one. And I put some  
16 tacks in front of you. If you could take each photograph out in  
17 the order, and I'm going to ask if you can in each case put  
18 them, top to bottom, one through nine, on the poster board which  
19 is now in front of you on the easel which is right next to you.

20 And at the same time, if you could tell us which  
21 photograph you're putting up, which exhibit number it is on the  
22 back.

23 MR. LEON: And at the same time I would ask, with the  
24 court's permission, to publish also that photograph off of the  
25 computer.

1 BY MR. LEON:

2 Q. So which is the first photograph you showed?

3 A. The first photograph would be --

4 MS. WICKS: Your Honor, objection to this procedure, if  
5 I understand correctly what the government is asking to do. May  
6 we approach?

7 THE COURT: Yes.

8 (BENCH CONFERENCE ON THE RECORD.)

9 MS. WICKS: If I understand, what they're asking to do  
10 is display the exhibit on the monitors while he's putting it up,  
11 so simultaneously two things are happening. The jurors can't  
12 pay attention to all of them at the same time. We either need  
13 it to be done one way or the other way.

14 THE COURT: Overruled.

15 (END BENCH CONFERENCE.)

16 BY MR. LEON:

17 Q. What's the first photograph, number one, of the nine that  
18 you showed to Mr. Carter?

19 A. As on the board?

20 Q. Please stand and put them on the board. But also, so we can  
21 make a record and also display to the jury off the screen, tell  
22 us what the Exhibit Number is on the back.

23 THE COURT: Hand him the portable mic.

24 MR. LEON: Yes.

25 A. This first photograph is Exhibit 400.3N, as in Nancy; the

1 second one is Exhibit 400.3M, as in Mary; the second one is  
2 Exhibit 400.3O, O as in Oscar.

3 Q. I'm sorry, I think you said the second one. Is that the  
4 third --

5 A. The third. I apologize, the third one.

6 Q. Okay.

7 A. The fourth photograph is Exhibit 400.3L, as in Lima; the  
8 fifth photograph is 400.3Q; the sixth photograph is 400.3J; the  
9 seventh photograph is Exhibit 400.3P, as in Paul; the eighth  
10 photograph is 400.3S; and the ninth photograph is 400.3R.

11 Q. Just so the record is clear, I just don't know if it was  
12 clear as to what the third photograph was. Is this the third  
13 photograph I'm pulling?

14 A. Yes, it is.

15 Q. Just for the record, that's Exhibit 400.3O?

16 A. Yes.

17 Q. 3O?

18 A. 3O.

19 Q. Now, tell us how you showed these photographs to Mr. Carter  
20 on March 8th, '94?

21 A. I pretty much told Mr. Carter take his time, look through  
22 each photograph carefully. And if he identified anybody, to let  
23 me know who he identified in reference to this case.

24 Q. And did he identify somebody?

25 A. Yes, he did.

1 Q. Which numbered photograph did he identify?

2 A. He identified the sixth photograph.

3 Q. And why don't you pull that off and tell us the exhibit  
4 number.

5 A. Exhibit Number 400.3J.

6 Q. And when he identified that person, and if you need to refer  
7 to your -- well, first of all, when he identified that person,  
8 did he say something, yes or no?

9 A. Yes, he did.

10 Q. Did you record what he said?

11 A. Yes, I did.

12 Q. And is that recorded on Government's Exhibit 400.9, which  
13 you've identified as your write-up from that day?

14 A. Yes, it is.

15 Q. Would reviewing that refresh your recollection as to exactly  
16 what Mr. Carter said when he identified photo number six?

17 A. Yes, please.

18 Q. Tell us what Mr. Carter said.

19 A. He looked at the sixth photograph and stated, "That's him.  
20 He was the driver, and he was shooting."

21 Q. During this identification procedure, did Mr. Carter  
22 indicate the name of this person?

23 A. Yes, he did.

24 Q. And what was the name that he gave?

25 A. Antwuan.

1 Q. Now, during these -- you can sit down just for a moment,  
2 although I am going to ask you to get up in a moment.

3 During this, staying with March 8th, 1994, this photo  
4 identification procedure, was Mr. Carter cooperative?

5 A. Initially he wasn't, but during this part he was.

6 Q. What do you mean by that?

7 A. Initially, when he was first spoken to, he couldn't remember  
8 who shot him, just that he was shot, and didn't provide any  
9 names.

10 Once he came down to our office, we interviewed him, he  
11 then provided the name of the people who were responsible.

12 Q. Did you tell him what names?

13 A. No, I did not.

14 Q. Who gave who the names on March 8th?

15 A. Mr. Carter.

16 Q. Gave them to whom?

17 A. To myself and the other investigators.

18 Q. How else did Mr. Carter appear? Specifically, did he appear  
19 to be under the influence of any drugs or alcohol?

20 A. No, he did not.

21 Q. Did he seem to understand the identification procedures that  
22 you were conducting with him?

23 A. Yes, he did.

24 Q. Was he cooperative on this date?

25 A. Yes, he was.

1 Q. Okay. Now I would like to go two days later to March 10th  
2 of 1994. Was there another separate photo identification  
3 procedure done with Mr. Carter this two days later?

4 A. Yes, there was.

5 Q. And where did this occur?

6 A. This one occurred at his home.

7 Q. Whose home?

8 A. Mr. Carter's.

9 Q. And tell us, did you go -- did you participate in this?

10 A. Yes, I did.

11 Q. Did you go alone or with anyone else?

12 A. I went with another detective.

13 Q. Who was that?

14 A. I think it was Detective Dodson.

15 Q. Is there something that would refresh your recollection, or  
16 are you're pretty sure -- are you sure it was him?

17 A. I can look at some of my paperwork to see, just to refresh.

18 MR. LEON: May I approach?

19 THE COURT: Yes.

20 BY MR. LEON:

21 Q. I'm handing you what's marked for identification as  
22 Government's 400.10. Do you know what that is?

23 A. This is a Metropolitan Police Department police form 123.

24 Q. With respect to -- who prepared it?

25 A. I did.

1 Q. And it relates to what date?

2 A. March the 10th, 1994.

3 Q. And does that memorialize the -- in part the identification  
4 procedures you conducted with Mr. Carter on that date, with  
5 respect to the second individual?

6 A. Yes, it did.

7 Q. And does that refresh your recollection as to who you were  
8 with when you conducted this photo identification procedure with  
9 Mr. Carter in his home?

10 A. Yes.

11 Q. Who was it?

12 A. Detective Dodson, Tyrone Dodson.

13 Q. And tell us about this photo identification procedure. How  
14 many photographs did you use on this date?

15 A. The same: Nine; one including eight fillers, one of the  
16 suspect.

17 Q. And just so we're clear -- well, withdrawn.

18 May I approach?

19 THE COURT: Yes.

20 BY MR. LEON:

21 Q. Detective, I'm handing you what's marked for identification  
22 as Government's 400.3A, 400.3B, 400.3C, 400.3D, 400.3E, 400.3F,  
23 400.3G, and 400.3I.

24 MR. LEON: And Your Honor, the government would move  
25 for their admission. And we've already consulted with -- well,

1 we would move for their admission.

2 THE COURT: That's eight photographs?

3 MR. LEON: It's nine, so perhaps I missed one. I  
4 apologize.

5 Government's 400.3A, 3B, 3C, 3D, 3E, 3F, 3G, 3H, and  
6 3I.

7 MR. MARTIN: No objection, Your Honor.

8 THE COURT: Without objection, they're received.

9 (Government Exhibits 400.3A, 400.3B, 400.3C, 400.3D,  
10 400.3E, 400.3F, 400.3G, 400.3H, and 400.3I were moved into  
11 evidence.)

12 BY MR. LEON:

13 Q. How did you choose those photographs?

14 A. Same way, based on race, physical appearance, and age.

15 Q. And what was your goal in putting --

16 A. Once again, to see if a victim can identify a suspect in  
17 reference to this case.

18 Q. This is the last time I'm going to ask you to do it, but I'm  
19 going to ask you to stand up and please show the order in which  
20 you though showed these photographs to Mr. Carter.

21 A. First one is going to be Exhibit 400.3A; second one will be  
22 400.3B; third one will be Exhibit 400.3C; fourth one would be  
23 Exhibit 400.3D; fifth one would be Exhibit 400.3E; sixth one  
24 would be Exhibit 400.3F; seventh would be Exhibit 400.3G; eighth  
25 one would be Exhibit 400.3H; and the ninth one would be

1 Exhibit 400.3I.

2 Q. And how did you actually physically show these photographs  
3 to Mr. Carter?

4 A. Again, I handed it to him and asked him to take his time,  
5 look through each photograph to see if there was anybody that  
6 was involved in this offense.

7 Q. You can sit down.

8                 Actually, before you sit down, why don't you tell us,  
9 did he identify someone from the photos?

10 A. Yes, he did.

11 Q. Which numbered photograph did he identify?

12 A. The sixth photograph.

13 Q. Why don't you pull that if you could, and then sit down.

14 A. (Witness complies.)

15 Q. And for the record, what is the exhibit number of the sixth  
16 photograph that Mr. Carter positively identified?

17 A. Exhibit 400.3F.

18 Q. And did you memorialize in Government's 400.10 exactly what  
19 Mr. Carter said when he positively identified that photograph?

20 A. Yes, I did.

21 Q. Tell us what Mr. Carter said, exactly.

22 A. He stopped at the sixth photograph and stated, "There he is.  
23 That's Jojo. He was shooting from the back."

24 Q. When he said this to you, did you record it just the way you  
25 read it?

1 A. Yes.

2 Q. Did Mr. Carter appear to have any doubt as to what he told  
3 you?

4 A. No.

5 Q. Did you suggest to him what to say?

6 A. No, I did not.

7 Q. Did you tell him the name Jojo at any point before he said  
8 Jojo?

9 A. No, I did not.

10 Q. Did Mr. Carter appear to be under the influence of any drugs  
11 or any alcohol when he made this positive identification of the  
12 person he identified as Jojo?

13 A. No, he was not.

14 Q. On this date, March 10th, 1994, was Mr. Carter cooperative  
15 with you?

16 A. Yes, he was.

17 MR. LEON: Can I just have one moment, Your Honor?

18 THE COURT: Yes.

19 BY MR. LEON:

20 Q. Just a couple of final questions, Detective. Back then, in  
21 February and March specifically of 1994, you said you were  
22 working for -- where were you assigned within MPD?

23 A. The Violent Crime and Gang Task Force.

24 Q. At that time, back in 1994, March, did you know anything  
25 about any beef between a group called One-Five and a group

# EXHIBIT EE

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :  
Plaintiff, : Docket No. CR 05-100  
v. :  
ANTWUAN BALL, DAVID WILSON, : Washington, DC  
GREGORY BELL, DESMOND :  
THURSTON, JOSEPH JONES, and : May 31, 2007  
DOMINIC SAMUELS, : 2:15 p.m.  
Defendants. :  
: :  
:

VOLUME 59 - AFTERNOON SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS  
UNITED STATES DISTRICT COURT JUDGE, and a JURY

APPEARANCES:

For the United States: UNITED STATES ATTORNEY'S OFFICE  
Glenn S. Leon, Assistant United  
States Attorney  
Ann H. Petalas, Assistant United  
States Attorney,  
Gilberto Guerrero, Assistant  
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For Defendant  
Antwuan Ball: CARNEY & CARNEY  
John James Carney, Esq.  
South Building  
601 Pennsylvania Avenue, N.W.  
Washington, DC 20004  
202.434.8234

1 A. When I got outside, he had walked -- he was walking away  
2 from the window. He was leaving to go out in the yard, so I was  
3 like, "What's up?" He was like, "Man" --

4 Q. Before you tell me that, how was he acting then?

5 A. He was shaking. He was real hyped. He was like he ain't  
6 trying to go back to jail.

7 Q. Now, in that condition, what did Brad say?

8 MR. TABACKMAN: Objection. Can we approach, Your Honor?

9 THE COURT: Yes.

10 (Following sidebar discussion had on the record:)

11 MR. TABACKMAN: We don't have any -- all we have is  
12 shaking, basically, real hyped. We don't have voices, what his  
13 voice is like, that he's sweating. The big thing is, I think, in  
14 terms of the ability to reflect, the first words this witness  
15 just said is, "I ain't -- I ain't going back to jail."

16 So this witness now -- so now we have Mr. Carter making an  
17 excited utterance supposedly when what he's doing is he's  
18 reflecting a clear indication of reflection here. I think there  
19 is just not a basis to make an excited utterance. We don't have  
20 the length of time between when Black got shot and --

21 I just think that -- I mean, the Court understands this,  
22 so I don't need to go on. I think it's clear that it's not  
23 excited to the level that hearsay should come in.

24 THE COURT: Were you going to ask anything more about his  
25 condition or his appearance?

1 MR. GUERRERO: I can, Judge, but I think the record  
2 establishes that this witness saw Bradley Carter hyped, excited;  
3 I think his own words were "shaking." And I think the statement  
4 that previously just came out was "Black just got shot," to  
5 establish a close proximity to the excited utterance that we're  
6 just about to hear.

7 THE COURT: I'm not arguing with you. I was just asking  
8 if you were planning to ask anything more about his appearance.  
9 There was some reference to blood and running. I didn't know if  
10 you were following up on that or not.

11 MR. GUERRERO: I can follow up on that.

12 MR. TABACKMAN: Your Honor -- I'm sorry.

13 Mr. Carter had been interviewed by the police.

14 THE COURT: Say that again.

15 MR. TABACKMAN: Mr. Carter had been interviewed by the  
16 police by the time he's talking with this gentleman.

17 THE COURT: That's not in the record.

18 MR. ZUCKER: Your Honor, while he's reviewing something,  
19 I'd like to respond. I just note that I did check with some of  
20 the people who are more familiar with the area and in fact to get  
21 from 15th and Alabama, this approximate area, over to -- to get  
22 there from greater Southeast, which is, I think, the hospital he  
23 says he went to, as well as to get from the scene of the  
24 shooting, which I think was 23rd -- I mean, each of those are  
25 like 10, 15 minute rides, which I think, going from -- and they

1 went from the scene of the shooting to the hospital; while at the  
2 hospital, he was there for a little while and was concerned about  
3 being arrested because he knew there was an outstanding warrant,  
4 so there's reflection on that, and then there's the additional  
5 travel to the scene where the statement was made, all of which, I  
6 think, undercuts the legitimacy of the excited utterance.

7 THE COURT: I think that'll go to the weight and not the  
8 admissibility.

9 (Sidebar discussion concluded.)

10 BY MR. GUERRERO:

11 Q. All right. I just want to follow up a little bit with  
12 what you said was the physical appearance of Brad when you're  
13 outside with him and you said "hyped" and you also said it  
14 looked like he'd been running. Describe that. Tell us exactly  
15 how he appeared?

16 A. He was sweating, he was tired, he was just -- you could  
17 tell he'd been running.

18 Q. And in that condition, in addition to what you told us  
19 earlier, what did Brad say to you?

20 A. He said him, Black, Travis and Pooh, they was going to  
21 the liquor store. And he said that -- I think they stopped at a  
22 stop sign or a light or something.

23 MR. CARNEY: Objection.

24 MR. MARTIN: Objection.

25 THE COURT: Sustained.

1 BY MR. GUERRERO:

2 Q. Tell us what you recall, what you recall Brad saying.

3 A. And he said a car pulled up beside them. He said that  
4 when he looked over --

5 Q. Nice and loud.

6 A. He said a car pulled up beside him. He said he looked  
7 over. He said he seen Antwuan and Jo-Jo in the car.

8 Q. And did -- in that condition, did Brad tell you what, if  
9 anything, Antwuan and/or Jo-Jo did?

10 A. He didn't say Jo-Jo did anything. He said Antwuan  
11 started shooting out the window of his car.

12 Q. When you're talking to Brad, did you notice whether he  
13 had any injuries?

14 A. Yes. He had -- he got shot in the hand.

15 Q. What did you see in his hand?

16 A. Blood.

17 Q. And raise up your hand so the jury can see. Which hand  
18 are you talking about?

19 A. This hand right here (indicating), the right hand.

20 Q. The right hand?

21 A. Yeah.

22 Q. You said that Brad mentioned Jo-Jo. Do you know who that  
23 is?

24 A. Yes.

25 Q. And how do you know Jo-Jo?

# EXHIBIT FF

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, : Docket No. CR 05-100

Plaintiff :

v. : Washington, DC

ANTWUAN BALL, :  
DAVID WILSON, :  
GREGORY BELL, :  
DESMOND THURSTON, : March 29, 2007  
JOSEPH JONES, :  
DOMINIC SAMUELS, :

Defendants : 1:00 p.m.

VOLUME 26 - AFTERNOON SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS,  
UNITED STATES DISTRICT JUDGE, and a jury

APPEARANCES:

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GLENN S. LEON, ESQUIRE  
GIL GUERRERO, ESQUIRE  
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1747 Pennsylvania Avenue, NW  
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1 admission?

2 MR. ZUCKER: Because it's only coming in against one  
3 party, not against the rest of the defendants.

4 THE COURT: And that's an instruction I would be giving  
5 at the end of the case with respect to everything that's come  
6 in. But not every time an admission by only one party comes in  
7 with respect to that one party am I going to be giving an  
8 instruction. That would just delay this trial tremendously. So  
9 your request is denied.

10 MR. ZUCKER: But given the rulings previously that  
11 everything that comes in comes in against the group, the jury  
12 will have no way to distinguish at this point and six months  
13 from now or five months from now, whenever we give the jury  
14 instructions, we're not going to be able to reference this  
15 specific statement.

16 THE COURT: And why wouldn't you?

17 MR. ZUCKER: Not unless I remember.

18 THE COURT: I sympathize, but the request is denied.

19 (END BENCH CONFERENCE.)

20 BY MR. LEON:

21 Q. Mr. Capies, you told us you heard the shots and you ran out  
22 and saw Troy Lewis. Correct?

23 A. I heard the shots, came to the corner, yes, sir, and looked  
24 down the street and saw.

25 Q. Did you see with your own eyes who shot Troy Lewis?

1 A. No, sir.

2 Q. You said that it appeared that he was moving when you first  
3 laid eyes on him. Correct?

4 A. Yeah, he was moving for a second, but not that long.

5 Q. And when you say "not that long," what happened -- what  
6 happened shortly after that?

7 A. He just stopped. I guess he was dead right there.

8 Q. Now, earlier you stated that Antwuan killed Troy.

9 A. Yes.

10 Q. How do you know that?

11 A. He told me.

12 Q. Who told you?

13 A. Antwuan.

14 Q. Tell us what Antwuan told you.

15 A. One day I was -- well, actually, I was acting kind of like  
16 funny.

17 Q. You were acting funny?

18 A. Towards him.

19 Q. Towards who?

20 A. Antwuan.

21 Q. Why?

22 A. Because Troy had a baby by my cousin.

23 Q. What's your cousin's name?

24 A. Sherry.

25 Q. What's the baby's name?

1 A. Little Troy.

2 Q. Okay. So why were you acting funny towards Antwuan?

3 A. I mean, I was hearing stuff that Troy was doing, so I knew,  
4 you know, it was going to happen sooner or later, but me and him  
5 was cool.

6 Q. Who was cool?

7 A. Me and Troy.

8 Q. What kind of stuff were you hearing about Troy?

9 A. He was shooting at people feet and crying about small money  
10 people owed him.

11 Q. And these rumors you heard, where did you hear these rumors,  
12 what neighborhood?

13 A. Around Congress Park.

14 Q. And when you said it was going to happen sooner or later,  
15 what did you mean by that when you just said that?

16 A. I mean, Antwuan was complaining about him.

17 MR. ZUCKER: Objection, basis on Antwuan's complaining.

18 THE COURT: And what?

19 MR. ZUCKER: Basis as to Antwuan's complaint, unless  
20 it's first person.

21 MR. LEON: I'll ask.

22 BY MR. LEON:

23 Q. Antwuan was complaining about him. Did you hear Antwuan  
24 complaining about Troy?

25 A. Yes, sir.

1 Q. With your own ears?

2 A. Yes, sir.

3 Q. Tell us about that.

4 A. He was just like, "Man, he coming around here back in the  
5 daytime, and we ain't going to be having that around here."

6 Q. What is your understanding as to what that means, that "back  
7 in the daytime"?

8 A. He was known for -- Troy was known for being cruddy.

9 Q. What do you mean by cruddy?

10 A. Just robbing people and doing just little dumb stuff, like  
11 robbing people and stuff.

12 Q. Now, when Antwuan was complaining to you about Troy, was  
13 this before or after Troy was killed?

14 A. This was before Troy got killed.

15 Q. How much before?

16 A. I would say like some months, about two months.

17 Q. And was this one particular conversation, complaint, or was  
18 it more than one?

19 A. This was one particular.

20 Q. Okay. And when you were with Antwuan and he was complaining  
21 this one particular time, were you and he alone or was anyone  
22 else there?

23 A. There were several people around.

24 Q. Who else was there?

25 A. Smoke, Wop, Fat Tony.

1 Q. And where were you-all when Antwuan was making this  
2 complaint?

3 A. In front of the Lincoln.

4 Q. How long would you say this conversation took place? How  
5 long was it?

6 A. It wasn't that long. It was just like he coming around  
7 here, you know what I'm saying, on some messed up time.

8 Q. What do you mean by messed up time?

9 A. I mean, you know, people owing him, and he looking for  
10 them -- he looking for them for 40 and 50 dollars.

11 Q. Now, you used the expression, "messed up time." Is this  
12 your expression or is this Antwuan Ball's word choice back then?

13 A. That was his expression.

14 Q. What else do you specifically remember Antwuan saying, his  
15 words exactly, the best you can remember back then?

16 A. He was like, "Man, we ain't going to have that around here,"  
17 coming around here, you know what I'm saying, crying about 40 or  
18 50 dollars about somebody owed him some money and he fronting  
19 him coke.

20 Q. And what if anything happened after Antwuan made this  
21 complaint a few months before Troy was killed?

22 A. It was a guy named Smoke that used to be around there, too.

23 Q. Yeah.

24 A. And Troy was looking for Truck, and Truck --

25 MR. PURPURA: Objection. Personal knowledge. If

1 there's a foundation.

2 BY MR. LEON:

3 Q. Let me take a step back. Let's just focus in on this  
4 particular conversation that you're at, and these other people  
5 and Antwuan. At this meeting or this conversation, after  
6 Antwuan makes the complaint that you just told us about, what if  
7 anything happened at this meeting?

8 A. What you mean? Like, I mean, I don't understand.

9 Q. Okay. I'll ask again. You said this meeting happened and  
10 it lasted not too long?

11 A. Yes.

12 Q. Okay. After Antwuan made his complaint, did anything else  
13 happen at that time?

14 A. Right there at that time, no.

15 Q. Okay. Did you ever talk to Antwuan, yes or no, before  
16 Troy Lewis was killed at any other point about Troy Lewis?

17 A. No.

18 Q. Okay. Now let's get to after Troy Lewis is killed. I think  
19 you said you were acting funny towards Antwuan. Correct?

20 A. Yes.

21 Q. When is the next time -- well, first of all, describe funny.  
22 Would you see Antwuan?

23 A. Yes, I would see him.

24 Q. When is the first time you saw Antwuan Ball after Troy Lewis  
25 was killed?

1 A. I seen him that night.

2 Q. Where?

3 A. Just riding through, coming in the Circle.

4 Q. And tell us what happened when you saw Antwuan. Was he  
5 riding in what?

6 A. He was driving in a car. I can't remember what car it was.

7 Q. Was he alone or with anyone else?

8 A. He was by hisself.

9 Q. And did you see him?

10 A. Yes.

11 Q. Do you know if he saw you?

12 A. Yes, he saw me.

13 Q. How do you know?

14 A. Because I was out there standing with everybody else. He  
15 waved.

16 Q. He waved towards who?

17 A. Everybody that was standing out there with me.

18 Q. And were you acting funny towards him at that point?

19 A. I mean, I wasn't really looking at him straight in his face.

20 Q. Did you talk to Antwuan that night?

21 A. No, sir.

22 Q. When is the next time you talked to Antwuan?

23 A. It was like a week. Because I wasn't really staying around  
24 there. Like I was telling you, I was on the run and I was going  
25 back and forth uptown. So I seen him like a week later.

1 Q. Where was this?

2 A. In the Circle.

3 Q. And was he alone or with anyone else?

4 A. I can't remember. But I remember talking to him.

5 Q. Tell us what you remember about this conversation.

6 A. I got -- he told me, "Come here for a minute." He was like,  
7 "Come here for a minute and let me holler at you." I got in the  
8 van with him and was talking to him. He was, like, "Man, you  
9 know, man, sometimes little stuff happen, man, you know. The  
10 dudes around here, you know, on some cruddy time, man, you know  
11 what I'm saying? And he was going to any and everybody about  
12 little stuff and keeping the mug on his face.

13 And he was like, "Man, and I found out that he had  
14 something to do with my brother getting killed." --

15 MR. ZUCKER: Objection.

16 MR. CARNEY: Personal knowledge, 602.

17 MR. LEON: It's -- I thought we discussed this at the  
18 bench.

19 THE COURT: I think it was "I found out that." Why  
20 don't you clarify how that happened, and then you can move on.  
21 Or what that means.

22 MR. LEON: Okay.

23 BY MR. LEON:

24 Q. You said a few things. Let's start in reverse order,  
25 Mr. Capies.

1                   I believe you said -- just the last thing you said is  
2 he, Antwuan, said to you that he, Antwuan, heard something about  
3 his brother being killed?

4 A. Yes, sir.

5 Q. Let's break that down. First of all, his brother who?

6 A. Kairi.

7 Q. And at this point was Kairi already dead?

8 A. Yes, sir.

9 Q. And do you know -- don't go into the details, just first of  
10 all, yes or no, do you know how Kairi was killed? In other  
11 words, did he die of natural causes or not natural causes?

12 A. Not natural causes.

13 Q. And tell us, just so the record is clear, what Antwuan said  
14 to you about Kairi being killed.

15 A. He was, like, a guy named Kevin told him that --

16                   MR. ZUCKER: Objection. Actually, I withdraw the  
17 objection.

18 BY MR. LEON:

19 Q. Go ahead.

20 A. He was, like, a guy named Kevin told him that some people  
21 told him that Troy had something to do with his brother getting  
22 killed.

23 Q. And do you know Kevin's full name?

24 A. Yes, sir.

25 Q. What's Kevin's name?

1 A. Kevin Gray.

2 Q. Okay. You said a few other things. I think earlier when  
3 you were describing this conversation, I think you said  
4 something like along the lines of "he was keeping mugging,"  
5 something along those lines. Did you say something like that?

6 A. Yeah, that's just Troy, though. He walking around with his  
7 face balled up.

8 Q. What does that mean?

9 A. I mean, like, he just walking around with his face balled  
10 up. I ain't know expression what he was feeling at that time or  
11 not, but I just know he kept a mug on his face.

12 Q. Now, he kept a mug on his face. Is this what Antwuan said  
13 or is this you describing what Antwuan was saying?

14 A. I mean, it's what Antwuan said, and I seen him. I always  
15 seen Troy. He always had his face balled up.

16 Q. Did Antwuan, during this conversation, say anything else to  
17 you about Troy specifically, problems he was having with Troy?

18 MR. ZUCKER: Objection. Leading. Objection to the  
19 form of that question. It's leading.

20 THE COURT: Overruled.

21 A. He didn't say, you know what I'm saying, it's a personal  
22 problem; he was, like, it's our problem. I mean, he going to  
23 come around here and front people coke, he shouldn't be shooting  
24 at people's feet and all that.

25 BY MR. LEON:

1 Q. And with respect to what Kevin -- Antwuan told you that  
2 Kevin told him about his brother being killed, what did Antwuan,  
3 if anything, say to you about that, else say to you about that?

4 A. He was just, like, "Kevin came to me and told me that Troy  
5 got -- my people's say Troy got something to do with Kairi  
6 getting killed."

7 Q. And at that time did Antwuan indicate to you whether or not  
8 he believed that Troy may have been behind Kairi's death?

9 A. No, he didn't.

10 Q. He didn't indicate to you, or he told you he didn't  
11 believe --

12 MR. CARNEY: Objection, Your Honor.

13 MR. LEON: I just want to clarify the answer.

14 THE COURT: Go ahead.

15 BY MR. LEON:

16 Q. What do you mean by "he didn't"? He didn't believe it or he  
17 didn't indicate to you if he believed it?

18 A. He didn't believe it.

19 Q. Okay. He told you he didn't believe it?

20 A. Obviously he must have forgot that he told me beforehand,  
21 before the conversation in the van, that his brother went out  
22 with Kevin and got killed, and that he found out I guess his own  
23 way - he ain't tell me how - that Kevin set Kairi up.

24 Q. This is another conversation you had with Antwuan?

25 A. Yes, sir.

1 Q. This other conversation you had with Antwuan, was this  
2 before or after the conversation you had with him when he's  
3 talking about killing Troy Lewis?

4 A. This before Troy Lewis.

5 Q. Let's finish this conversation with Troy Lewis and then  
6 we'll go back. Okay? Finish up this conversation where he  
7 tells you he kills Troy Lewis.

8           What else, if anything, do you remember about this  
9 conversation?

10 A. That it was bull crap.

11 Q. Were those his words or yours?

12 A. I mean, I was thinking that in my Head when he was telling  
13 me that.

14           MR. ZUCKER: Your Honor, can I just request that the  
15 witness be cautioned to repeat what the statements were.

16 Because we're melding the line between his interpretations and  
17 the statements.

18           THE COURT: No, I'm going to allow counsel to conduct  
19 his inquiry, and it's in his interest to get the answers clear  
20 as well.

21 BY MR. LEON:

22 Q. What do you remember -- still with this conversation you had  
23 with Antwuan about a week later, what else do you remember, if  
24 anything, about what Antwuan said to you about why he killed  
25 Troy Lewis?

1 A. He said at that time that Kevin told him that his peoples  
2 said that Troy had something to do with Kairi getting killed.

3 Q. What else, if anything, do you remember Antwuan saying to  
4 you?

5 A. I mean, that's just about it.

6 Q. During this conversation, did Antwuan describe for you how  
7 he did this or not?

8 A. Yes, sir.

9 Q. And tell us what he -- how he described how he did the  
10 murder.

11 A. He said that he came out the cut of the back where  
12 Mika Murphy and them live at, and ran down on Troy getting in  
13 his Truck.

14 Q. And?

15 A. He fired shots on him.

16 Q. Now, Mr. Capies, I'm going to ask you to clear the screen by  
17 tapping it on the lower right-hand portion.

18 A. (Witness complies.)

19 Q. Now, you've mentioned someone named Tamika Murphy?

20 A. Yes, sir.

21 Q. And did she live anywhere on the map that we're looking at?

22 A. Yes, sir.

23 Q. And for the record, we're looking at an enlarged portion of  
24 Government's 100.1.

25 Where is Tamika Murphy's house?

1 A. (Witness complies.)

2 Q. For the record, you've put a line above looks like three  
3 different roof tops. Is it the left, the center, or the right  
4 of where that line seems to be?

5 A. It's the first one.

6 Q. First one on the left or on the right?

7 A. To the left.

8 Q. You've mentioned several times the Lincoln. Do you see the  
9 Lincoln here?

10 A. Yes, sir.

11 Q. Don't touch it, but can you describe what the Lincoln is and  
12 where it is?

13 A. Yes, sir.

14 Q. Describe it.

15 A. It's a big old parking lot with buildings in the back.

16 Q. And where is it on this picture we're looking at?

17 A. On Congress Street.

18 Q. There appears to be a big parking lot just to the left of  
19 the line you drew. Is that the parking lot you're referring to?

20 A. Yes, sir.

21 Q. And the house that's Tamika Murphy's is therefore the house  
22 closest to that parking lot?

23 A. Yes, sir. No, sir, no, sir. Correction.

24 Q. Okay. Okay.

25 A. Because it's right there on the side. It's an apartment

1 right there. You can't hardly see it, but it's right there.

2 Q. Okay. Tamika Murphy's house is -- do you see the three  
3 houses near the line you've made the mark?

4 A. Yes, sir.

5 Q. It's the one on the left of those three houses?

6 A. It's hard to explain. It's too small. It's joined  
7 together, and it's that one little building on the left right  
8 there.

9 Q. Okay. Tell us -- when you said Antwuan told you that he cut  
10 past -- I believe words to the effect of "cut past Tamika  
11 Murphy's house," tell us what you understood Antwuan to tell you  
12 as he described what he did.

13 A. He said he ran out the cut, like the back of that right  
14 there.

15 Q. What cut? Can you see it?

16 A. (Witness complies.)

17 Q. Okay. For the record, you made another line parallel to the  
18 line above. Does that cut have any relationship to the Lincoln?

19 A. Yes, sir.

20 Q. Tell us in words what relationship that cut has to the  
21 Lincoln.

22 A. The Lincoln right on the left-hand side to that cut as well.

23 Q. Okay. Is it in front of or behind the Murphy's house,  
24 Tamika Murphy's house?

25 A. It's behind.

1 Q. Okay. And what else does Antwuan tell you after he says  
2 he's running from that cut?

3 A. He said he ran out, ran down on him with a mask.

4 Q. Okay. What did he tell you he did?

5 A. He say he ran into the street so he couldn't get away from  
6 him, and he opened shots on him.

7 Q. Did he tell you where he was when he opened shots on him?

8 A. In the front driver, the front of the van.

9 Q. Did he describe -- did he actually demonstrate, or he just  
10 told you in words?

11 A. He just told me in words.

12 Q. Okay. And when he said he came up on the front driver's  
13 side, what else, if anything, did he say to you about what he  
14 did?

15 A. He was just making sure he didn't get away from him.

16 Q. And then what else did he say?

17 A. Nothing else.

18 Q. Did he tell you where he ran after -- or if he ran after he  
19 shot him?

20 A. Oh, yes, sir.

21 Q. What did he tell you?

22 A. It's back right here. It's an alley right here in the back.  
23 He said he had a car right there.

24 Q. For the record, you made another mark which appears to be an  
25 alley a little bit behind and a little bit to the right of what

# **EXHIBIT GG**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, : Docket No. CR 05-100  
: :  
Plaintiff : :  
: :  
v. : Washington, DC  
: :  
ANTWUAN BALL, : :  
DAVID WILSON, : :  
GREGORY BELL, : May 8, 2007  
DESMOND THURSTON, : :  
JOSEPH JONES, : :  
DOMINIC SAMUELS, : :  
: :  
Defendants : 1:30 p.m.  
: : . . . . . : . . . . .

VOLUME 47 - AFTERNOON SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS,  
UNITED STATES DISTRICT JUDGE, and a jury

APPEARANCES:

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GLENN S. LEON, ESQUIRE  
GIL GUERRERO, ESQUIRE  
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1747 Pennsylvania Avenue, NW  
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Washington, DC 20006  
(202) 454-2811

1 A. I can't recall what date, but it was in the daytime. The  
2 police opened up his truck door and his brains fell out with his  
3 gun in his hand.

4 Q. Were you there for the -- did you witness --

5 A. I didn't witness the murder.

6 Q. -- him getting shot?

7 A. I didn't witness the murder, but I was walking back around  
8 the corner, and the police is all and shit right there.

9 Q. And where was Troy Lewis?

10 A. Dead in his truck.

11 Q. And this conversation that you were talking about, that you  
12 walked up with Antwuan on that -- where you marked on the map in  
13 that alley back there, how long after this, when you witnessed  
14 Troy Lewis in the truck, how long after that did the  
15 conversation take place?

16 A. Maybe two to three weeks.

17 Q. And when you pulled up -- or when you came up on this  
18 conversation, what if anything were the individuals doing?

19 A. They was talking about it. When I walked up, they shut up.  
20 And Twuan was like, "Naw, that's my little cousin, man."

21 Q. So when you pulled up, you said it got quiet?

22 A. Yeah.

23 Q. And what did Twuan say then?

24 A. Like, "Naw, that's my little cousin."

25 Q. And after Twuan said that, what else, if anything, did Twuan

1 say?

2 A. He continued on what he was talking about.

3 Q. What did he say?

4 A. He was explaining how he killed Troy.

5 Q. And what specifically was he saying?

6 A. He was saying how he put two through the windshield and went  
7 to the other side. And when he hitting it, he said he stuck his  
8 hand through the glass. He kept saying, "I stuck my hand  
9 through the glass."

10 Q. And he said he stuck his hand through the glass. Did he say  
11 what glass he was talking about?

12 A. The driver's side.

13 MR. ZUCKER: I'm sorry, I couldn't hear the answer.

14 THE WITNESS: The driver's side.

15 BY MS. PETALAS:

16 Q. Did he say to you why he did this?

17 A. No.

18 MS. PETALAS: Court's indulgence.

19 BY MS. PETALAS:

20 Q. Turning now -- I think earlier you had -- yesterday in your  
21 testimony you had talked about something, the 10th Place beef.  
22 Do you recall that?

23 A. Yes.

24 Q. Did you ever have -- well, when did this 10th Place beef  
25 start, if you know?

# EXHIBIT HH

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :  
:  
Plaintiff, : Docket No. CR 05-100  
:  
v. :  
:  
ANTWUAN BALL, DAVID WILSON, : Washington, DC  
GREGORY BELL, DESMOND :  
THURSTON, JOSEPH JONES, and : April 2, 2007  
DOMINIC SAMUELS, : 1:55 p.m.  
:  
Defendants. :  
:  
:

VOLUME 27 - AFTERNOON SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS  
UNITED STATES DISTRICT COURT JUDGE, and a JURY

APPEARANCES:

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202.434.8234

1 A. It's like '97, early part.

2 Q. Early part of '97?

3 A. Yes, sir.

4 Q. Did -- during these conversations in the early part of  
5 '97 that you're having with Wop and Dazz, you said, I believe,  
6 that Wop -- excuse me, that Dazz did not disagree with the talk  
7 of retaliation. Did Dazz ever say anything himself about  
8 retaliation?

9 A. Yes, sir.

10 Q. Tell us what Dazz said about retaliation.

11 A. That they went down there and got in a shootout with some  
12 guys with 10th Place.

13 Q. Who told you this?

14 A. Dazz.

15 Q. When did Dazz tell you this?

16 A. I don't got no date on it, sir, but I remember him  
17 telling me in the early part of '97.

18 Q. Early part of?

19 A. '97.

20 MR. ZUCKER: Could I ask the witness to define what is the  
21 early part of '97? Is there any way to focus it?

22 THE COURT: No.

23 BY MR. LEON:

24 Q. What is the early part of '97 to you, Mr. Capies?

25 A. January, February.

1 Q. Okay. Was this a specific conversation you can remember?

2 A. Yes.

3 Q. Tell us the specific conversation you remember having in  
4 January, February, where Dazz told you about retaliating.

5 A. He told me that him, Antwuan, LT, and Wop went down  
6 10th Place to try to creep down on them guys, and somebody  
7 opened fire on them, which they believe was Steve and Patrick,  
8 and they stopped the car and jumped out and opened fire back.

9 Q. Okay. You've said a few things there. Let's just follow  
10 up. First of all, Dazz told you about this?

11 A. Yes, sir.

12 Q. And he told you that Dazz was there and who else?

13 A. LT, Twan, and Wop.

14 Q. So four people in total?

15 A. Yes, sir.

16 Q. Okay. And where did this shooting happen?

17 A. On 10th Place.

18 Q. Did he tell you where on 10th Place?

19 A. No. He just said 10th Place.

20 Q. And did Dazz tell you who's idea it was to drive to  
21 10th Place to do this shooting?

22 A. I don't remember.

23 Q. Okay. And did he tell you how they got there?

24 A. Yes. By car.

25 Q. Did he tell you whose car?

1 A. No, I don't remember, sir.

2 Q. Okay. And did he tell you who from Congress Park, who  
3 from the group Dazz was with, actually fired weapons?

4 A. All of them that was in the car that I named.

5 Q. All four?

6 A. Yes.

7 Q. And I believe you said that they were firing at Steve and  
8 Patrick?

9 A. Yes.

10 Q. Anybody else?

11 A. A dude named Redhead.

12 Q. Redhead. And did Dazz indicate to you whether or not  
13 either Redhead or Steve or Patrick, any of those three fired  
14 back?

15 A. Yes.

16 Q. Did they?

17 A. Yes.

18 Q. Who?

19 A. Steve and Patrick.

20 Q. And?

21 A. And Redhead.

22 Q. So all three did fire back?

23 A. Yes.

24 Q. Did Dazz indicate to you if anyone, anyone from  
25 Congress Park or anyone from 10th Place, was actually hit with

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

Cr. No. 05-100-13 (RWR)

DESMOND THURSTON

Defendant.

**DEFENDANT'S MEMORANDUM IN AID OF  
SENTENCING**

After a ten month long trial in which the jury heard all of the evidence cited by the government in its Memorandum and after several weeks of deliberation, the jury acquitted Desmond Thurston of participating in a narcotics conspiracy alleged to be in existence from 1992 to 2005. Thurston was also acquitted of RICO conspiracy and all but two substantive offenses which involved the distribution of small quantities of crack cocaine on October 17, 2000 and November 18, 2003 respectively. Counts 11 and 24.

Sentencing defendant to an extra thirty years, as the government demands, based primarily on the government's interpretation of relevant conduct under the sentencing guidelines, is constitutionally repugnant and would not serve the other statutory sentencing factors set forth in 18 USC §3553(a). For the following reasons, Thurston requests that the Court reject the government's position and sentence him to no more than 33 months.

## **SENTENCING GUIDELINES 18 U.S.C. § 3553(a)(4)**

The two small sales of which Thurston was convicted, typically would result in a guideline range of incarceration of 27 to 33 months.<sup>1</sup> The government contends, however, that Thurston should be held responsible for 1.5 kilograms of cocaine base<sup>2</sup> and possession of a firearm based on the unreliable testimony of crack addicts and cooperators, whose unreliable testimony was obviously discredited by the jury. Doing so, dramatically increases the guideline range by 22 levels, a difference of 30 years.

### **Heightened Standard of Proof Required Due to Disproportionate Impact of Enhancement on Thurston's Sentence**

Given the contested 22 level enhancement sought by the government in this case the heightened clear and convincing standard of proof is required. See, *United States v. Jordan*, 256 F.3d 922, 927-28 (9<sup>th</sup> Cir. 2001); See also *United States v. Dare*, 425 F.3d 634 (9th Cir. 2005). Defendant does not dispute that the preponderance of the evidence standard ordinarily applies to sentencing determinations. *United States v. Watts*, 519 U.S. 148, 156 (1997).

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<sup>1</sup> That calculation is based on offense level 16 (see PSR ¶ 141) and criminal history category III. Although the PSR calculates a criminal history score of IV, defendant contests *infra* the additional two points added to his criminal history points by probation report writer for committing the instant offense while under a criminal justice sentence. See, PSR ¶ 86.

<sup>2</sup> This quantity is the same that the government has attributed to the charged narcotics conspiracy. Each of the seven defendant's who entered guilty pleas in this case, admitting to their involvement in the charged narcotics conspiracy, also admitted that he was accountable for 1.5 kilograms of crack. *Government's Memorandum in Aid of Sentencing for Desmond Thurston* ("Memo"), p. 2. Thurston did not plead guilty because he did not participate in the conspiracy. After being vindicated by the jury, the government, nevertheless, seeks to hold him accountable to the exact same degree as if he had been convicted.

Neither the Supreme Court nor the District of Columbia Circuit has ruled that a heightened standard of proof is not constitutionally required in cases, as here, where the relevant conduct substantially increases the sentence. In *Watts*, the Supreme Court noted "a divergence of opinion among the Circuits as to whether, in extreme circumstances, relevant conduct that would dramatically increase the sentence must be based on clear and convincing evidence." *United States v. Watts*, 519 U.S. at 156, 156-57, & n.2 (1997). The Supreme Court, however, did not resolve the circuit conflict.

In *United States v. Long*, 328 F.3d 655 (DC Cir. 2003), the DC Circuit held that an eight level enhancement was not a tail that wagged the dog and, therefore, did not present extraordinary circumstances requiring a heightened standard of proof. It again recognized that the question of a heightened standard of proof was left open in *Watts*, more recently in *Dorceley*, but did not rule on the issue, since *Dorceley* "does not press this argument." *United States v. Dorceley*, 454 F.3d 366, 373 n.2 (D.C. Cir 2006).

The Ninth Circuit, however, has ruled that in exceptional cases, application of the clear and convincing standard is required. *United States v. Jordan*, 256 F.3d at 926. In *Jordan*, a nine level enhancement that more than doubled the length of the sentence authorized by the initial guideline range, presented such an "exceptional case."

The instant case involves a ten fold increase in defendant's sentence for relevant conduct. Accordingly, it cannot be disputed that the enhancement sought in this case is a tail that wags the dog requiring the government to establish any enhancement by clear and convincing evidence.

**Evidence Cited by the Government in Support of  
Estimated Drug Quantity Has Insufficient Indicia  
of Reliability to Support its Probable Accuracy**

Because the quantity of drugs attributable to a defendant is the single most important determinant of sentence length under the guidelines, it is crucial that the information the district court relies on in calculating the defendant's base offense level have "sufficient indicia of reliability to support its probable accuracy." U.S.S.G. § 6A1.3(a), *United States v. Acosta*, 85 F.3d 275 (7th Cir. 1996). Moreover, where as here, the PSR is conclusory, the burden lies in the first instance with the government to produce evidence from which the district court can make a reliable finding. *United States v. Sumner*, 325 F.3d 884, 890 (7th Cir. 2003). The government has failed to do this.

Each of the witnesses relied upon by the government to support a finding that Thurston distributed 1.5 kilograms of crack were either crack addicts (Martin and Parsons) at the time of their alleged transactions or were testifying pursuant to cooperation agreements in the hope of receiving a 5K letter from the government (Cabies and Conner). For the following reasons the testimony of none of these witnesses is sufficiently reliable to establish the probable accuracy that Thurston distributed 1.5 kilograms of crack cocaine.

**Bobby Cabies**

Cabies pleaded guilty to participating in the charged RICO conspiracy for, among other things, his admitted drug dealing, murder of Devar Chandler, and numerous other acts of violence. Tr. 4/3/07, p. 5626-5627.<sup>3</sup> As he had done multiple times in the past to avoid jail time, he agreed to cooperate with the government in the hope of avoiding the rest

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<sup>3</sup> Copies of the cited transcript pages of Mr. Cabies' trial testimony are attached as Exhibit A.

of his life in jail. Tr. 4/4/07, p. 5825. With a strong motivation to assist the government in this case, Capies testified extensively and in detail about each of the defendants' drug dealings and numerous acts of violence that occurred in Congress Park over a ten year period.<sup>4</sup> The jury obviously discredited Capies' testimony in its entirety, when it returned verdicts of not guilty on Count 1 and Count 2 for each of the defendants. Even if this Court does not reach the same conclusion as the jury regarding Capies' general lack of credibility, and discount his testimony in its entirety for sentencing purposes, a closer review of his testimony regarding Thurston demonstrates insufficient reliability to support the probable accuracy of attributing any drug quantity to Thurston.

The government asserts that, based on Capies testimony, 3 kilograms of crack cocaine may be attributed to Thurston. Memo, p. 16. This estimate is calculated by assuming that Thurston sold 20 ziplocks every day, 5 days per week, 50 weeks per year for six years. *Id.* Capies testimony, however, does not provide a reliable factual basis for any of this assumption.

Capies never testified that Thurston distributed drug on a regular basis for six years. Capies did testify that during the 1992 to 1996 period he observed Thurston sell drugs in Congress Park "[j]ust about every day." Tr. 3/29/07, p. 4923. That testimony was allegedly based on his observation of Thurston while he was also selling drugs "just about every day." Tr. 3/28/07, p. 4812. Even for that four year period, Capies' "just about every day" testimony is unreliable. During a substantial portion of that period either Thurston or Capies was incarcerated and obviously not selling drugs on a daily basis.

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<sup>4</sup> Capies testified that from 1996 until 2001 participants in every murder that occurred in Congress Park confessed to him. Tr. 4/11/07, p. 6438

Thurston was incarcerated for all but the first 23 days of 1995 and the entire last half of 1996. Tr. 9/24/07, p.m., p. 21614. Capies was locked up for "some months" in 1992. Tr. 4/4/07, p. 5754. In 1993, he admitted that he was "real bad back then, I was in and out of jails." Tr. 4/4/07, p. 5754. In 1994 he was "back and forth in shelter homes." Tr. 4/4/07, p. 5754. For a portion of the period that Thurston was not incarcerated in 1996, Capies was locked up at Oak Hill. Tr. 4/4/07 p, 5756-5757. Moreover, during this time period Capies testified that he was not selling drugs exclusively in Congress Park but "back and forth" between Congress Park and "around 37." Tr. 3/28/07, p. 4839. With respect to the 1996-2001 period, Capies did not testify, even generally, regarding the frequency of Thurston's drug dealing. Accordingly, there is no reliable basis to find that Thurston distributed drugs on a daily basis for six years.

Nor does Capies testimony provide a reliable factual basis for estimating that Thurston sold 20 ziplocks per day. When specifically asked about the amount of drugs he observed Thurston selling, Capies testified "dimes. I mean there was no certain weight." Tr. 3/29/07, p. 4923-4924. Nor did Capies know how much or how often Thurston got drugs from his supplier in the 1992-1996 time period. Tr. 3/29/07, p. 4924-4925.

He claimed to have observed Thurston purchase from several suppliers after that time period, but could not estimate a quantity or frequency. He claimed that he saw Thurston purchase from Boy Boy but did not know how much he was getting. Tr. 4/2/07, pp. 5208-5209. He claimed to "know" Thurston got "coke" from Cedric Conner but did not explain how he knew and "couldn't remember" what he was getting. Tr. 4/2/07, p. 5238.

While Capies' testimony may, if credited at all, establish that Thurston sold drugs, it does not provide a reliable basis for arriving at a particular quantity of cocaine for purposes of applying U.S.S.G. § 2D1.1(a)(3). It certainly does not provide a reliable factual basis for the government's proposed estimate of 20 ziplocks a day, 250 days per year for six years.

**Cedric Conner**

Conner pleaded guilty to participating in a narcotics conspiracy. Tr. 4/24/07, p. 8379.<sup>5</sup> By pleading guilty, he understood that he faces a ten year mandatory minimum sentence of incarceration and a guideline range of 168 - 235 months. Tr. 4/24/07, 8355-8356. He testified pursuant to a cooperation agreement, admitting that he hoped to avoid any jail time. Tr. 4/24/07, p. 8356. To get that benefit he knew that the government had to file a 5K letter with the court and that the government was the one to determine whether his testimony was "truthful" before it would file the letter. Tr. 4/24/07, pp. 8384-8386. Despite the requirement to provide truthful testimony Conner provided, what can best be described as fantastic, a description of his drug purchasing trips to Spanish Harlem.<sup>6</sup> The jury obviously discredited Conner's testimony regarding his claimed sales to Thurston and codefendants because they acquitted them all of participation in the narcotics conspiracy.

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<sup>5</sup> Copies of the cited transcript pages of Mr. Conner's trial testimony are attached as Exhibit B.

<sup>6</sup> Conner claimed that he purchased a half kilo of cocaine by going to Spanish Harlem and when approached by a stranger, would give him \$10,000. He would then wait around for someone to return later with the cocaine. Tr. 4/25/07, p. 8623-8626. Whether this story was told to protect his suppliers or to exaggerate the extent of his drug dealing, it is clear that he was not testifying truthfully.

Even if the Court credits Conner's testimony in general, his testimony regarding transactions with Thurston fails to provide sufficient indicia of reliability to support the probable accuracy of an estimate that he sold "28 to 140 grams" to Thurston. See, Memo, p. 18. That estimate, proffered by the government, is based on Conner's direct testimony that he sold to Thurston 4 to 5 times in quantities of a quarter to a half each time in 1999/2000. *Id.*

On cross examination, however, Conner admitted that he couldn't recall exactly the quantity of his first sale to Thurston "somewhere in the neighborhood" of 1996. Tr. 4/25/07, p. 8628-8629. Nor could he recall any general circumstances about the sale like what month it was, what season or whether it was day or nighttime. Tr. 4/25/07, p. 8630. On further examination he admitted "I don't recall what he bought that time." Tr. 4/25/07, p. 8631. When asked about the second transaction, he candidly explained,

The question you're asking me is like asking me how many times I've been to the grocery store and how much money have I spent. I mean, I can't recall that.

Tr. 4/25/07, p. 8631. When asked about whether there even was a third sale, he testified "could have been, could have not been." Tr. 4/25/07, p. 8631. "It could have been maybe one to five times, at max." Tr. 4/25/07, p. 8632. Based on Conner's testimony, there is simply no reliable basis for estimating four or five sales to Thurston of 7 to 28 grams each.

### **Ed Martin/Gail Parsons**

The government cites to the testimony of crack addicts Ed Martin and Gail Parsons as evidence from which to estimate that Thurston distributed 900 grams of crack cocaine. Memo p.13. Martin and Parsons admittedly were crack cocaine addicts throughout the

period about which they were testifying. In this regard, the court must subject the drug quantity information provided by them to special scrutiny. *United States v. Miele*, 989 F.2d 659, 666 (3rd Cir. 1993), see also *United States v. Kinnard*, 465 F.2d 566, 570-71 (D.C.Cir.1972)(general rule that addict informant testimony be received with caution and scrutinized with care).

The government asks the court to assume that Martin purchased an eight ball from Thurston every week for six years. Memo, p. 13. Neither Martin's nor Parsons' testimony, even if credited, provide sufficient indicia of reliability to support the probable accuracy of these assumptions.

There is no factual basis for assuming a six year period of drug dealing between Martin and Thurston. The time period Martin testified about was from 1992, when he met Gail Parsons, until the later part of 2001, when he moved from the DC area. Tr. 3/22/07, pp. 3759, 3746.<sup>7</sup> From 1992 to the date of his testimony, Martin testified that he went into treatment for his addiction "like four times." Tr. 3/22/07, p. 3755. He explained that when he relapsed, as he did in 1992, he would go out [and use drugs] for about thirty days and then stop and "go back into my program and would stay clean again for two years." Tr. 3/22/07, p. 3753. There is no factual basis establishing that Martin was a continuous purchaser of crack cocaine in Congress Park throughout the 1992 to 2001 period.

Nor is there evidence as to when during this time period, Martin met Thurston. Rather, the evidence is that "at some point" and "over time" Martin received drugs from Thurston. Tr. 3/22/07, pp. 3767, 3826, 3852. Because Martin was in treatment for some

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<sup>7</sup> Copies of the cited transcript pages of Mr. Martin and Ms. Parsons' trial testimony are attached as Exhibit C.

of the 1992-2002 period, because Thurston was incarcerated during substantial periods of that time,<sup>8</sup> and because there is no evidence as to when Martin began purchasing from Thurston, there is no factual basis to support the probable accuracy that Martin purchased from Thurston for a six year period.

Nor is there a factual basis to assume that Martin purchased drugs from Thurston on a weekly basis either through Parsons or directly. Martin testified that Congress Park was not the only neighborhood where he purchased crack. Tr. 3/22/07, p. 3762. He estimated that he went to Congress Park “[t]ons of times. Over 50” to hang out and party with Gail Parsons staying as short as one hour to as long as one week. Tr. 3/22/07, p. 3761. He gave Parsons money to purchase crack for both of them to use. Tr. 3/22/07, pp. 3759-3760. There were approximately nine individuals that were selling Martin crack in Congress Park. Tr. 3/22/07, p. 3862. Other than Thurston, he didn’t know their names, but would purchase from “the guys that [Parsons] would bring in, whoever they were.” Tr. 3/22/07, p. 3768. He made clear that “Gail would make all the transactions, no matter who they were. It wasn’t always Dazz.” Tr. 3/22/07, p. 3826. Sometimes Parsons would make “credit calls” to get crack and when it was time to pay, Martin would meet the people and pay them. Tr. 3/22/07, p. 3761.

Parsons testified that she purchased drugs from Thurston but never testified to a time frame. Tr. 3/7/07, p. 1900. She admitted on cross examination that she couldn’t remember how many times she purchased from Thurston, but estimated “about 10, 20, not

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<sup>8</sup> The parties stipulated that Thurston was incarcerated from 1/24/95 until 1/3/96 and from 6/29/96 until 7/28/97. Tr. 9/24/07, p. 21614

many.<sup>9</sup> Tr. 3/8/07, pp. 2176. She didn't have Thurston's phone number. Tr. 3/8/07, p. 2186. She didn't know where he lived and never went to his house. Tr. 3/8/07, p. 2186. The only time she purchased from him was when she couldn't get anybody on the phone to come to her house. Tr. 3/8/07, p. 2186-2187. Then, "I would go outside and look for him or stand in the door and wait and see who would come by." Tr. 3/7/07, p. 1902.

Martin did not testify regarding the frequency of his purchases from Thurston, except to characterize it as "a lot." Tr. 3/22/07, p. 3767. Parsons testified that she made 10-20 purchases from Thurston ever. Such generalized testimony is insufficient to reliably estimate that sales occurred on a weekly basis over a six year period.

Nor is there a sufficient factual basis to estimate that Martin and/or Parsons purchased eightball quantities of crack from Thurston. Martin testified that when he purchased from Thurston "[i]t wouldn't be a whole lot." Tr. 3/22/07, p. 3767. On direct examination Parsons testified that the most she purchased was an eightball that would sometimes be in dime form "sometimes it would be in chunk" Tr. 3/7/07, p. 1900-1901. Unable to recall her direct testimony, on cross examination, however, she testified that she purchased "just dimes." Tr. 3/8/07, p. 2178. She testified that she never purchased a wholesale quantity or an eightball. Tr. 3/8/07, p. 2178. It is well established that when choosing between plausible estimates of drug amount, the court should "err on the side of caution" using the smallest amount. *United States v. Hill*, 79 F.3d 1477, 1488 (6th Cir. 1996); *United States v. Acosta*, 85 F.3d 275, 282 (7<sup>th</sup> Cir. 1996). For all of these reasons,

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<sup>9</sup> When pressed by the prosecutor on direct she testified that she purchased from Thurston "eighty" times. Tr. 3/7/07, p. 1900. She admitted on cross examination that an estimate of eighty times was not accurate. Tr. 3/8/07, p. 2177.

neither Martin's nor Parson's testimony provides sufficient indicia of reliability to support the probable accuracy that Thurston distributed 900 grams of crack to them.

If the Court credits any of these witnesses and finds sufficient indicia of reliability to support the probable accuracy of some drug quantity, it still must make findings that any extraneous drug transactions are relevant conduct to the offenses of conviction. Neither the PSR nor the government has established the required relatedness.

**Government Failed to Establish that Extraneous Transactions are Relevant Conduct**

The mere fact that the defendant may have engaged in other drug transactions "is not sufficient to justify treating those transactions as relevant conduct for sentencing purposes." *United States v. Ortiz*, 431 F.3d 1035, 1041 (7<sup>th</sup> Cir 2005)(quoting *United States v. Crockett*, 82 F.3d 722, 730 (7<sup>th</sup> Cir. 1996)). Though relevant conduct includes more than just the conduct for which a defendant was convicted, it has limits: the conduct must relate to the offense of conviction. *United States v. Allen*, 488 F.3d 1244 (10<sup>th</sup> Cir. 2007). The relatedness principle is fundamental because of the commitment to sentencing based on the seriousness of the actual offense proven or admitted. See 18 U.S.C. § 3553(a)(1).

With respect to drug offenses, U.S.S.G. § 1B1.3(a)(2) provides that all acts and omissions "that were part of the same course of conduct or common scheme or plan as the offense of conviction" should be deemed "relevant conduct" by the sentencing court. See, *United States v. Jackson*, 161 F.3d 24 (DC Cir. 1998). By design, Section 1B1.3(a)(2) takes account of offenses that "involve a pattern of misconduct that cannot readily be broken into discrete, identifiable units that are meaningful for purposes of

sentencing.” U.S.S.G. § 1B1.3, background. “Implicit in this purpose is the limitation that when illegal conduct does exist in ‘discrete, identifiable units’ apart from the offense of conviction, the Guidelines anticipate a separate charge for such conduct.” *United States v. Hill*, 79 F.3d 1477 (6<sup>th</sup> Cir. 1996)(and cases cited therein).

The guideline only applies if “there are distinctive similarities between the offense of conviction and the remote conduct” and cannot be used to sentence a defendant based on “isolated, unrelated events that happen only to be similar in kind.” *Id.* quoting *United States v. Sykes*, 7 F.3d 1331, 1336 (7th Cir.1993). It is reversible error to consider conduct which exists in discrete, identifiable units apart from the offense of conviction as relevant conduct. See *United States v. Marion*, Slip Copy, 2007 WL 678041 (M.D.Fla. 2007) citing *United States v. Maxwell*, 34 F.3d 1006, 1010-11 (11th Cir.1994).

Even if the witnesses are credited, their testimony does not provide a factual basis which would allow the Court to find that the sales by Conner, the purchases by Parsons and/or Martin or the transactions allegedly observed by Capies are either part of the same course of conduct or part of the same common scheme or plan. See, USSG 1B1.3(a)(2). Rather, if credited, they establish that their transactions with Thurston are discrete, identifiable units apart from either of the offenses of conviction.

To the extent that the government’s characterizations of Thurston’s drug dealing as “routine” and “serial” suggests that it should be considered under the “same course of conduct,”<sup>10</sup> prong, the government has failed to establish the necessary relatedness.

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<sup>10</sup> Courts have distinguished between the terms “same course of conduct” and “common scheme or plan” by recognizing that a “common scheme or plan” requires that acts “be connected together by common participants or by an overall scheme” whereas the “same course of conduct” concept looks to “whether the defendant repeats the same type

Offenses are considered the “same course of conduct” if “they are sufficiently connected or related to each other as to warrant the conclusion that they are part of a single episode, spree, or ongoing series of offenses.” U.S.S.G. § 1B1.3, application note 9(B).

The sentencing court must evaluate and balance several factors, including “the degree of similarity of the offenses and the time interval between the offenses.” *Id.* Also relevant are the “nature of the offenses” and whether the offenses can “readily be broken into discrete, identifiable units that are meaningful for purposes of sentencing.” *Id.* comment. (n. 9(B)) & background. No single factor in this fact-based inquiry is dispositive. The absence of one factor requires a stronger presence of at least one of the other factors.

*United States v. Pinnick*, 47 F.3d 434 (DC Cir. 1995).

Capies testimony that Thurston sold regularly from 1992 to 1996, does not provide a sufficient connection to the 10/27/00 or the 11/18/03 offenses of conviction. During that time period, Capies testified that Thurston was selling along 14<sup>th</sup> Place, SE. Tr. 3/29/07, pp. 4922-4923. Those transactions are separated from the offenses of conviction by four years and seven years respectively, occurred in different locations,<sup>11</sup> with no other evidence linking them to the offenses of conviction. The alleged activity during the 1992-

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of criminal activity over time. *United States v. Hill*, 79 F.3d 1477, 1482 (6<sup>th</sup> Cir. 1996). Moreover, where, as here the offenses of conviction and the extraneous transactions do not share common accomplices, common suppliers, or common buyers, nor a common purpose aside from the fact that they involved the distribution of drugs, they do not constitute a common scheme or plan. See, *United States v. Kesee*, Slip Copy, 2007 WL 521364 (W.D.La. 2007)(February 15, 2007); See also *United States v. Sykes*, 7 F.3d 1331 (7<sup>th</sup> Cir. 1993)(“sporadic acts over an extended time period generally do not permit the inference of a common scheme or plan but indicate independent acts that may lack the necessary link”).

<sup>11</sup> The 11/18/03 offense occurred at 1307 Congress Street, SE. The 10/17/00 offense occurred inside Wilson’s apartment.

1996 period of time necessarily constitutes a discrete, identifiable unit apart from either of the offenses of conviction and, therefore, can not be considered relevant conduct.

Martin and/or Parsons' general testimony that they purchased from Thurston between 1992 to 2002 without any testimony regarding the regularity of their purchases,<sup>12</sup> from Thurston nor Conner's testimony that he sold to Thurston one to five times in "1996 or later," establish a sufficient temporal proximity to either of the offenses of conviction.

**Government Has Not Established  
That Thurston Possessed a Firearm  
During the Commission of the Offense  
Of Conviction or Relevant Conduct**

Defendant objects to the two level enhancement for possession of a firearm. PSR ¶70. Section 2D 1.1(b)(1) of the Guidelines provides that a two-level enhancement is warranted "if a dangerous weapon (including a firearm) was possessed" during the commission of a crime of conviction for which Guidelines section 2D1.1 is applicable. U.S.S.G. § 2D1.1(b)(1). Here, there is absolutely no evidence that Thurston possessed a firearm during the 10/17/00 or 11/18/03 offenses for which he was convicted.

While the PSR and the government in its memorandum cite testimony regarding possession and use of firearms, neither connects the use or possession of firearms to any narcotics transactions that could possibly qualify as relevant conduct to the offenses of conviction. Although Capies testified that he and others, including Thurston, possessed weapons when committing robberies, robberies do not qualify as relevant conduct to the

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<sup>12</sup> Even if the transactions with Parsons and Martin might be considered part of a common scheme or plan, given the common participants, those transactions are not common to either of the offenses of conviction and necessarily constitute discrete identifiable units apart from the offenses of conviction.

offenses of conviction under §1B1.3(a)(2) because they are not offenses of a character for which §3D1.2(d) would require grouping of multiple counts. USSG 1B1.3(a)(2).

Nor does the testimony of Keith Barnett, even if credited,<sup>13</sup> establish that Thurston possessed firearms during any relevant conduct. Barnett testified about an armed robbery of a marijuana dealer at 6<sup>th</sup> and Florida Avenue that had nothing to do with drug dealing in Congress Park. Tr. 4/19/07, p. 7901-7903.<sup>14</sup> As previously stated, robbery does not qualify as relevant conduct to a drug offense under §1B1.2(d). The government has not attempted to otherwise establish that Thurston's alleged participation in the robbery is relevant conduct to either of the offenses of conviction.

Similarly, Barnett also alleged that Thurston offered him a gun and crack cocaine while he was in the hospital as a peace offering when Jasmine Bell shot him while they were playing a dice game. Even if Barnett is credited and it can be found that Thurston possessed a firearm, there is no evidence cited by the government nor argument made as to how that possession was during relevant conduct to either of the offenses of conviction.

Because the government has not met its burden to establish any guideline enhancements, Thurston's base offense level is 16. See, PSR ¶141.

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<sup>13</sup> Barnett's testimony implicating Thurston should not be credited at all. He testified pursuant to a cooperation agreement and with the understanding that the only way to get out from under a thirty year sentence was to truthfully testify about his own activities and help the government convict someone else. Tr. 4/19/07, pp. 7811, 7814. With respect to the robbery of the marijuana dealer, he admittedly lied to the grand jury. Tr. 4/19/07, pp. 7904-7905, 7910. At trial, he admitted that it was his idea to commit the robbery after he purchased marijuana near 6<sup>th</sup> and Florida Avenue and saw a trash bag full of marijuana. Tr. 4/19/07, p. 7901. It is only his testimony that implicates Thurston in this robbery. Tr. 4/19/07, p. 7901.

<sup>14</sup> Copies of the cited transcript pages of Mr. Barnett's trial testimony are attached as Exhibit D.

## Criminal History Calculation

Defendant objects to the addition of two points to his criminal history for committing the instant offense while under a criminal justice sentence. PSR ¶ 86. Thurston's criminal justice sentence for his 1996 Maryland conviction ended on March 23, 1998 when his supervision expired. See, PSR ¶ 81. Neither the offenses of conviction nor any relevant conduct occurred during that period. Thurston's criminal history points are therefore five, which places him in Category III. Accordingly, Thurston's guideline sentencing range is 27-33 months.

## OTHER SENTENCING FACTORS

In imposing sentence, courts must consider the impact of the factors enumerated in §3553(a) in addition to the advisory guideline calculation. Of course, pursuant to 18 USC § 3553(a) the guiding principle in sentencing is that the court shall impose a sentence sufficient but not greater than necessary to comply with the purposes of sentencing.

### **1. The Nature and Circumstances of the Offense and the History and Characteristics of the Defendant. § 3553(a)(1)**

"The offense" within the meaning of this sentencing factor must be the offenses which Thurston was found guilty of committing: distribution of small quantities of crack cocaine on October 17, 2000 to Sandra White and on November 18, 2003 to an undercover officer. Mr. Thurston accepts responsibility for his actions regarding these offenses. Due to the government's efforts to have the Court impose an overly punitive sentence, however, Mr. Thurston refutes the government's assertions in support of the proposed sentencing enhancements. Mr. Thurston's arguments in this regard should not

be construed as an effort to diminish the seriousness of the offenses of conviction nor minimize his acceptance of responsibility.

Taking Thurston's prior criminal conduct into consideration to sentence Thurston to a Criminal History III is presumptively reasonable and accounts for his prior criminal conduct.

Thurston is thirty years old. As a youth, he admittedly fell victim to the poverty and culture of the neighborhood in which he was reared. While those circumstance undoubtedly contributed to some poor choices Thurston made in the past, the trial also showed glimpses of Thurston's character as someone who cares about others. He was a friend who provided emotional support to Ed Martin when Martin was going through a difficult period with his wife. He allowed Martin to stay with Thurston and helped Martin as he tried to beat his addiction to crack. Tr. 3/22/07, p. 3832-3835.

During the three years that Thurston has been incarcerated in this case, he suffered a profound loss when his mother died in 2006. He has also endured the stress of a nine month long federal court trial knowing that he effectively faced the rest of his life in prison. These circumstances, which might have caused a person with less fortitude to become angry, bitter and resentful, allowed Thurston to reflect and mature. With the support of his close friends, family and case manager he has changed his view of himself and his place in this world, as the attached letters demonstrate. Exhibit F.

Sentencing Thurston for his conduct on 10/17/00 and 11/18/03, to an Offense Level 16, Criminal History Category III, to 27 to 33 months meets the needs of sentencing in §3553(a)(2) addressed *infra*. It is also consistent with the nature and circumstances of the jury's verdict.

**2. § 3553(a)(2)(A) need to reflect the seriousness of the offense, and to provide just punishment for the offense**

Although drug related crimes are serious offenses, they present a wide range of seriousness, depending upon the amount of drugs involved and the scope of transaction. Mr. Thurston's offenses concern two distinct sales of small quantities of crack more than three years apart, one to a confidential informant the other to an undercover officer. The jury did not find these transaction part of a narcotics or RICO conspiracy, having acquitted Thurston of participation in those conspiracies.

This court is required to impose a "just punishment" for these offenses. However, what the PSR and government asks this Court to do with respect to allegations regarding the Reginald Reid murder, 10<sup>th</sup> Place shooting, shooting of Linwood Carpenter, Ewing/Faison shooting, armed robberies and threats to security officers, is entirely inconsistent with this congressional mandate. To increase Mr. Thurston's sentence by nearly thirty years based on uncharged and acquitted<sup>15</sup> criminal offenses unrelated to the offenses of conviction and not found by a jury beyond a reasonable doubt, but rather submitted to the Court for a mere preponderance finding, would result in an unjust punishment.

More specifically, it would be unjust to punish Thurston in this case for any conduct that was premised solely by the testimony of Bobby Capies. Aside from Capies general lack of credibility, his testimony about Thurston's involvement in Reginald Reid's murder is suspect, at best. For example, regarding the discussion the prompted "the move" on

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<sup>15</sup> Thurston was found not guilty of participating in a narcotics or RICO conspiracy after the jury heard and considered all of the evidence of violence that the government cites in its memorandum.

Roadie's house, Capies gave inconsistent testimony. He initially testified that "me, Wop, Phil and Santu" were present. Tr. 4/2/07, p. 5249. He then changed his testimony claiming that he, Wilson and Thurston were the only ones present during that conversation. Tr. 4/2/07, p. 5249. Having included Thurston in "the move," and despite Capies' vast experience in committing robberies, he claims that Thurston, rather than he went into the apartment because Thurston "had bigger feet than mine." Tr. 4/2/07, p. 5254; Tr. 4/11/07, p. 6541. Moreover, Capies role in the murder of Reid is strikingly similar to the murder of D-Lock in which Capies, not Wilson or Thurston, was involved.<sup>16</sup>

Because Capies is not credible and there is no corroborating evidence connecting Thurston to this uncharged murder, it should not be considered at all in sentencing.

It is Capies testimony alone that connects Thurston to a shooting on 10<sup>th</sup> Place and the shooting of Linwood Carpenter. His testimony is not even based on his first hand knowledge of those events, but based on Thurston's alleged admissions to Capies about his involvement. Thurston denies making any such admission to Capies, and the evidence demonstrates, with respect to the 10<sup>th</sup> Place shooting, that Capies' testimony was untruthful. Capies repeated testified on direct and on cross examination that Thurston's admissions to him about the 10<sup>th</sup> Place shooting, occurred in the "early part of '97... January or February." Tr. 4/2/07, pp. 5308-5309, 6533-6534. He testified that these conversations occurred not long after he was released from jail in December, 1996. Tr. 4/11/07 p. 6531. They occurred "around Congress Park." Tr. 4/11/07, p. 6532. The conversations "had to be" in January or February, 1997. Tr. 4/11/07, p. 6532.

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<sup>16</sup> In both cases, Capies claimed he was involved but not the shooter. In both cases the main shooter unloaded his gun into the victim.

These alleged conversations could not have occurred in January or February, 1997. Nor could they have occurred in December, 1996 when Capies was released, in March, April, May, June, or July, 1997, since Thurston was incarcerated. A stipulation was entered into by the parties, that Thurston was incarcerated from 6/29/96 until 7/28/97. Tr. 9/24/07 p.m., p. 21614.

With respect to the Linwood Carpenter shooting, the government chose to rely on Capies' witness to Thurston's alleged confession rather than calling Mr. Carpenter as a witness. Capies' false testimony of Thurston's alleged admission, in the absence of any corroborating evidence that Thurston had any connection to that incident, does not reasonably support an enhanced sentence.

The government also asks this court to consider in sentencing Mr. Thurston allegations that he was involved in the shooting of John Ewing and James Faison. It relies primarily on Ewing's consistent identification of Thurston as one of the shooters. Memo, p. 23-24. Ewings' identification is questionable at best.

Ewing had reason to provide inaccurate information to law enforcement regarding the incident. Tr. 6/6/07, p. 14286.<sup>17</sup> He was high at the time. He claimed he didn't want to be a snitch. *Id.* He testified that he didn't tell the police on the night it happened who shot him. Tr. 6/6/07, p. 14280-14281. Officer Duncan testified that when he responded to the scene, Ewing told him Thurston was one of the people involved. Tr. 6/6/07, 14370. The following day Ewing told Duncan the other person was LT. Tr. 6/6/07, pp. 14358-14359.

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<sup>17</sup> Copies of the cited transcript pages of John Ewing and Officer Duncan's trial testimony are attached as Exhibit E.

Ewing testified at trial that the car drove past five or six time before heading towards Congress Street ten minutes before two guys came through the cut from about 50 or 60 feet away, approached the house and started shooting. Tr. 6/6/07, p. 14284-14285. He never told Officer Duncan on the night of the shooting that the gunmen walked through a cut and approached the house before shooting. Tr. 6/6/07, 14387. He never told Officer Duncan that a car drove up and down the block before the shooting occurred. Tr. 6/6/07, p. 14387. Ewing told Duncan that the people got out of a black Lincoln and started shooting.<sup>18</sup> Tr. 6/6/07, p. 14387. At trial Ewing testified that a statement to that effect wasn't true. Tr. 6/6/07, p. 14286. He testified that he had reason to provide the police inaccurate information at the time because he didn't want to snitch. Tr. 6/6/07, p. 14286. Nevertheless, he claimed that the identification of Thurston as one of the people involved, that he provided to Officer Duncan that night was accurate.

Based on Ewing's identification of Thurston, the government indicted Thurston regarding this offense in Superior Court in 1997. US v. Thurston, F-8106-97 That case, however, was dismissed in January, 1998 for want of prosecution. This offense was again charged in the instant case as an overt act of the narcotics conspiracy and racketeering act of the RICO conspiracy. Thurston, however, was acquitted of both conspiracies. Having failed to prosecute Thurston for this crime either at the time it occurred or in the instant case, the government nevertheless wants him sentenced for it.

### **3. §3553(2)(A) The Need for the Sentence to Promote Respect for the Law**

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<sup>18</sup> It was known that Kairi Kellibrew drove a black Lincoln at the time.

Sentencing Thurston for more than the two offenses of conviction, would promote disrespect for the law because it conflicts with the jury's verdict. A sentence based primarily on uncharged and acquitted conduct undermines the public expectation that offenders are punished for the crimes of conviction.

Acquitted and uncharged conduct sentencing goes against virtually everything the public knows and respects about the American criminal justice system. For instance, it is understood that a person may not be punished for a crime unless guilt has been proven to a jury beyond a reasonable doubt. It is also understood that the American criminal justice system would rather free a guilty person than imprison an innocent one. Substantial increases in sentences based on acquitted and uncharged crimes erode these principles and, with them, respect for the law. Additionally, when laypersons see that the product of a jury's factfinding may be affirmatively set aside by a single judge, the civic value of jury service suffers. This is particularly true in this case, as Juror #6 made clear in a post verdict letter to the court. Exhibit G.

Sentencing Thurston to confinement for thirty three years for the two distributions of which he was convicted is inconsistent with typical punishment for a distribution of small quantities of cocaine base. Sentencing Thurston for more than the offenses found by the jury would promote disrespect for the law as being contrary to the jury's verdict.

#### **4. The Need to Avoid Unwarranted Sentence Disparities § 3553(a)(2)(G)**

A below guideline sentence is appropriate in this case to avoid unwarranted disparity for crack versus powder cocaine. It is counsel's understanding that this Court has imposed sentences below the suggested guidelines on several occasions due to the 100:1 crack/powder ratio incorporated into the pre-amended guidelines. As amended, the

guidelines now advance a crack/powder ratio that varies (at different offense levels) between 25 to 1 and 80 to 1. At offense level 16, which is applicable in the present case, the amended guidelines impose the same offense level for 1 to 2 grams of crack cocaine as 50 to 100 grams of powder cocaine, creating a disparity of 50 to 1. Eliminating the disparity would place Mr. Thurston at Offense Level 12.

The same reasons that the Court relied upon in not following the pre-amendment guidelines are equally applicable in the instant case given that the post amendment guidelines still result in a dramatic disparity. Moreover, the Supreme Court has recently made clear that it is within the discretion of the District Court to conclude when sentencing a particular defendant that the crack/powder disparity yields a sentence "greater than necessary" to achieve §3553(a)'s purposes. *Kimbrough v. United States*, \_\_\_\_ S.Ct. \_\_\_, 2007 WL 4292040 (December 10, 2007).

Even if the court does not remove the crack/powder disparity, sentencing Mr. Thurston, as the government requests, creates an unwarranted and substantial disparity among defendants with similar records who have been found guilty of guilty of distribution of crack cocaine.

## CONCLUSION

For the foregoing reasons and for others that may arise at the sentencing hearing in this matter, defendant respectfully requests that the Court sentence him for the offenses of conviction only to a term not to exceed 33 months.

Respectfully submitted,

/s/  
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Counsel for Defendant Thurston

# EXHIBIT A

Page 4703

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, : Docket No. CR 05-100  
: :  
Plaintiff :  
: :  
v. : Washington, DC  
: :  
ANTWUAN BALL, :  
DAVID WILSON, :  
GREGORY BELL, : March 28, 2007  
DESMOND THURSTON, :  
JOSEPH JONES, :  
DOMINIC SAMUELS, :  
: :  
Defendants : 1:45 p.m.  
\* \* \* \* \*

VOLUME 25 - AFTERNOON SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS,  
UNITED STATES DISTRICT JUDGE, and a jury

APPEARANCES:

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1 THE COURT: It's overruled and you can cross on it.

2 MR. PURPURA: Certainly.

3 (END BENCH CONFERENCE.)

4 (Jury in at 4:26 p.m.)

5 THE COURT: Thank you, ladies and gentlemen, for your  
6 indulgence. We're ready to resume.

7 BY MR. LEON:

8 Q. Now, Mr. Capies, you talked about yourself and some other  
9 people who you came up with in '92 and were selling drugs. Is  
10 that fair of what you said earlier?

11 A. Yes, sir.

12 THE COURT: I'm sorry to interrupt, but let me just  
13 make sure we have clarified the 222.1 issue.

14 MR. LEON: I believe so. I believe it was in evidence  
15 already.

16 THE COURT: There is a 222.1 that is already in  
17 evidence. I just wanted to make sure you were in agreement that  
18 that's what you were showing before.

19 MR. LEON: Yes.

20 THE COURT: Okay.

21 BY MR. GUERRERO:

22 Q. So let's start there in '92. Were you in school at this  
23 point?

24 A. Yes.

25 Q. Okay. And so when were you, Bobby Capies, selling drugs?

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1 A. In '92.

2 Q. But when in the day? In other words, how frequently or  
3 infrequently were you selling drugs yourself in '92?

4 A. Oh, like after school.

5 Q. After school every day or after school once in a while?

6 A. Just about every day.

7 Q. And when you were doing that, was it in the area that you've  
8 indicated just near 14th and Savannah?

9 A. Yes, sir.

10 Q. Okay. Now, you mentioned other people. Let's take them in  
11 order. You mentioned Don?

12 A. Yes, sir.

13 Q. Do you know if Don was selling as well at that time and in  
14 that location?

15 A. Yes, sir.

16 Q. How do you know that?

17 A. Because he was hustling around me, too.

18 Q. Did you see him hustle?

19 A. Yes, sir.

20 Q. How frequently did you see Don hustle?

21 A. Like after school. We went to school together.

22 Q. Same junior high school?

23 A. Yes, sir.

24 Q. And how long did you know Don before that, before '92?

25 A. I knew him for a while before '92, about three or two years.

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1 Q. Yes or no, do you know if Kairi fronted anyone else in 1994?

2 A. No.

3 Q. No, he didn't, or no, you don't know?

4 A. No, I don't know.

5 Q. Okay. Were you still hanging out with Don around that time?

6 A. Yeah.

7 Q. 1994?

8 A. Yes.

9 Q. To your knowledge, yes or no, was Don still hustling in  
10 1994?

11 A. Yes.

12 Q. And where was he hustling at this time? Physically where?

13 A. He was still hanging around 14th Place hustling.

14 Q. Okay. How do you know that?

15 A. Because I was hustling around in the same court with him.

16 Q. And by the way, when you and he went to get money -- excuse  
17 me, get drugs from Don's brother, Feet, did you sell in that  
18 neighborhood, or where did you sell the drugs that you bought  
19 from Feet?

20 A. We sold them on 14th Place.

21 Q. Did you ever sell crack anywhere other than that spot on  
22 14th Place in '93, '94?

23 A. Yes.

24 Q. Where else?

25 A. I was back and forth. I used to go around 37. I wasn't

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :  
Plaintiff, : Docket No. CR 05-100  
v. :  
ANTWUAN BALL, DAVID WILSON, : Washington, DC  
GREGORY BELL, DESMOND :  
THURSTON, JOSEPH JONES, and : March 29, 2007  
DOMINIC SAMUELS, : 9:15 a.m.  
Defendants. :  
: :  
:

VOLUME 26 - MORNING SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS  
UNITED STATES DISTRICT COURT JUDGE, and a JURY

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Proceedings reported by machine shorthand, transcript produced  
by computer-aided transcription.

*Scott L. Wallace, RDR, CRR  
Official Court Reporter*

MORNING SESSION, MARCH 29, 2007

1 2 (9:13 a.m.)  
3 THE COURT: Good morning. While the defendants are coming  
4 out, I just wanted to pass on to you some generic feedback we're  
5 getting from the jurors. I don't know if all the lawyers are  
6 here.  
7 MR. ZUCKER: I'll check the hallway.  
8 THE COURT: Don't go, don't go. If they're right out  
9 there, bring them in. If they're not, they'll have to hear it  
10 from you all.  
11 MR. ZUCKER: My eyes are so bad. I think Mr. Guerrero was  
12 at the end of the hall.  
13 THE COURT: Well, you all pass it on and share it among  
14 your colleagues.  
15 Generic feedback from the jurors I thought you might want  
16 to hear. Complaint: Some lawyers are speaking much too quickly.  
17 When that happens they cannot understand what the question is and  
18 don't know or understand what the question is until they get a  
19 sense of it from the answer that's given by the witness. So it's  
20 a complaint about not only speed, but audibility. Sometimes  
21 lawyers are not close enough to the mic or speaking loud enough  
22 for them to hear. So let me just pass that on to you: Speed and  
23 audibility are important.  
24 They also are complaining that sometimes lawyers are  
25 referring to exhibits in much too familiar a fashion with the

*Scott L. Wallace, RDR, CRR  
Official Court Reporter*

4919

- 1 Q. How'd you know him?  
 2 A. From back in the day when I was small.  
 3 Q. Who did you know, if anyone, Ju-Ju to associate with or  
 4 hang out with, back during that time period?  
 5 A. Back then, a lot of people.  
 6 Q. Who?  
 7 A. We talking back then -- because he had went to jail for a  
 8 long time, but back like in the '80s, he used to be on 14th  
 9 Place with Antwuan.  
 10 MR. PURPURA: Objection, Your Honor, we're now in the time  
 11 frame of the '80s and personal knowledge.  
 12 MR. LEON: I can rephrase.  
 13 THE COURT: Go ahead.  
 14 BY MR. LEON:  
 15 Q. Did you know -- do you know what Ju-Ju looks like?  
 16 A. Yes, sir.  
 17 Q. Have you seen Ju-Ju?  
 18 A. Yes, sir.  
 19 Q. Have you talked to Ju-Ju?  
 20 A. Before, I talked to him.  
 21 Q. Okay. But have you ever talked to him?  
 22 A. Yes, sir.  
 23 Q. Okay. And did you know Ju-Ju or see Ju-Ju after 1992?  
 24 A. Yes, sir.  
 25 Q. And when you saw Ju-Ju after 1992, where did you see him?

*Scott L. Wallace, RDR, CRR  
Official Court Reporter*

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- 1 A. Around Congress Park.  
 2 Q. And when you saw Ju-Ju after '92 around Congress Park,  
 3 who, if anyone, did you see Ju-Ju with?  
 4 A. Me, Wop, LT, Drano. He used to hang in the alley with  
 5 us.  
 6 Q. And when he would hang with you -- well, withdrawn.  
 7 Did you ever know Ju-Ju to sell drugs in Congress Park?  
 8 A. Yes, sir.  
 9 Q. Would he do it -- do you know, if you know, where Ju-Ju  
 10 got his drugs from?  
 11 A. No, sir.  
 12 Q. Now, you mentioned Kairi, Antwuan Ball's brother, around  
 13 this time, 94, 95 or so, and you said you were getting -- you  
 14 were getting from Kairi, I believe you said, for a period of  
 15 time; is that correct?  
 16 A. Yes, sir.  
 17 Q. Do you know where Kairi got his drugs?  
 18 MR. ZUCKER: Objection, basis or foundation.  
 19 BY MR. LEON:  
 20 Q. If you know.  
 21 A. Yes, sir.  
 22 THE COURT: Just yes or no.  
 23 THE WITNESS: Yes.  
 24 BY MR. LEON:  
 25 Q. You do know?

*Scott L. Wallace, RDR, CRR  
Official Court Reporter*

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- 1 A. Yes.  
 2 Q. Okay. Did you ever see Kairi with your own eyes get his  
 3 drugs, before you got them from him?  
 4 A. No, sir, just going on what he told me.  
 5 Q. Off what who told you?  
 6 A. Kairi.  
 7 Q. What did Kairi tell you as to where Kairi got his drugs?  
 8 A. A guy named Deuce.  
 9 Q. Deuce?  
 10 A. Yes, sir.  
 11 Q. Do you know who Deuce is?  
 12 A. Yes, sir.  
 13 Q. Who's Deuce?  
 14 A. Deuce is this Guy named -- Deuce, Rob.  
 15 Q. What's that?  
 16 A. He goes by the name Rob.  
 17 Q. And have you ever personally gotten drugs from Deuce?  
 18 A. Wholesale, but not no weight or nothing like that.  
 19 Q. When Kairi told you that Kairi got drugs from Deuce, did  
 20 he ever tell you how much he got from Deuce?  
 21 A. No, sir.  
 22 Q. Do you know, just yes or no at this point, if anyone else  
 23 who sold drugs in Congress Park got their drugs from Deuce?  
 24 MR. ZUCKER: Foundation.  
 25 THE COURT: You can answer yes or no.

*Scott L. Wallace, RDR, CRR  
Official Court Reporter*

4922

- 1 BY MR. LEON:  
 2 Q. You don't know?  
 3 A. No, sir, I don't.  
 4 Q. Now, you've also mentioned this morning, Dazz, and you've  
 5 identified him by photograph and in court yesterday. Do you  
 6 remember talking about Dazz?  
 7 A. Yes, sir.  
 8 Q. Around this time, 1992 to 1996, did you ever see Dazz  
 9 sell drugs?  
 10 A. Yes, sir.  
 11 Q. With your own eyes?  
 12 A. Yes, sir.  
 13 Q. When Dazz would sell drugs in Congress Park, that you saw  
 14 with your own eyes, where would you see him do this?  
 15 A. In my court, by his building, all on 14th Place.  
 16 Q. Okay.  
 17 MR. LEON: Your Honor, I would ask to publish again the  
 18 map of Congress Park which is 100.1.  
 19 THE COURT: Yes.  
 20 BY MR. LEON:  
 21 Q. And Mr. Capies, I would ask you to clear the screen by  
 22 tapping it. So you said by your court?  
 23 A. Yes, sir.  
 24 Q. Okay. Just quickly, just tap what you mean by your  
 25 court?

*Scott L. Wallace, RDR, CRR  
Official Court Reporter*

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4924

- 1 A. "In my court," just around in that 14th Place area.  
 2 Q. Just quickly, if you could, put a dot or a circle in the  
 3 area that you're referring to.  
 4 A. (Indicating.)  
 5 Q. And do you know if Dazz lived in this area, around this  
 6 time?  
 7 A. Yes, sir.  
 8 Q. Where did Dazz live?  
 9 A. A little behind me, to the right.  
 10 Q. Can you tap where Dazz lived around this time.  
 11 A. (Indicating.)  
 12 Q. Okay. For the record, you made two marks, the first one  
 13 to indicate where your court was, a little bit above the PL in  
 14 Savannah Place on the map, in the center-right portion, is that  
 15 fair?  
 16 A. Yes, he lived in Savannah Place.  
 17 Q. Okay. And then the second dot you made indicating the  
 18 proximate area where Dazz lived is just below the AH in Savannah  
 19 Place?  
 20 A. Yes, sir.  
 21 Q. Okay. When you saw Dazz with your own eyes sell drugs in  
 22 your court, how often are we talking about?  
 23 A. Just about every day.  
 24 Q. And how much would Dazz sell, if you know, around this  
 25 time? Again, '92 to '96 or so?

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- 1 A. I mean, dimes. There was no certain weight.  
 2 Q. Do you know, if you know, yes or no, how Dazz got his  
 3 drugs to sell?  
 4 A. At that time, he was going to this guy named Burke.  
 5 Q. Burke?  
 6 A. Yes, sir.  
 7 Q. And how do you know that?  
 8 A. Because I used to always see him with him and he would  
 9 tell me.  
 10 Q. Who'd tell you?  
 11 A. Dazz.  
 12 Q. What would Dazz tell you?  
 13 A. That he get his coke from Burke.  
 14 Q. Do you know who Burke is?  
 15 A. Yes, sir.  
 16 Q. And who is Burke?  
 17 A. A guy that lived at the end of 14th Place.  
 18 Q. And did Burke sell drugs in Congress Park?  
 19 A. Yes, sir.  
 20 Q. We'll get to Burke in a few moments.  
 21 Let's just stay with Dazz. Did Dazz ever tell you who he  
 22 got his drugs from, other than that Burke?  
 23 A. No, sir.  
 24 Q. And do you know from Dazz how often he would get his  
 25 drugs from Burke, around this time?

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- 1 A. No, I don't know how often.  
 2 Q. And when Dazz was selling in your court, were you selling  
 3 in your court at the same time?  
 4 A. Yes, sir.  
 5 Q. What about Don?  
 6 A. Yes, sir.  
 7 Q. I believe you also mentioned EB. Was EB also selling in  
 8 your court at that time?  
 9 A. Yes, sir.  
 10 Q. And I believe -- who else, if anyone -- I don't want to  
 11 put words in your mouth, but I thought you mentioned one or two  
 12 other people who were selling around this time in your court.  
 13 Did you or not?  
 14 A. Yes, sir.  
 15 Q. Who?  
 16 A. My brother.  
 17 Q. Darryl?  
 18 A. Yes, sir.  
 19 Q. Who else?  
 20 A. Like Dom, EB, Dazz.  
 21 Q. And was there enough business for all of you?  
 22 A. Yes, sir.  
 23 Q. Did any of you have a problem with the others selling  
 24 right in the same court?  
 25 A. No, sir.

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- 1 Q. You all get along?  
 2 A. Yes, sir.  
 3 Q. Now, you mentioned some of the older people who were more  
 4 near the circle. Do you remember that testimony?  
 5 A. Yes, sir.  
 6 Q. And again, just quickly, who were those people -- I don't  
 7 want to -- just quickly, for the record, just the names.  
 8 A. Boy-Boy, Antwuan, Kairi, Fat Tony, Jo-Jo.  
 9 Q. And did you ever -- you, when I say "you," Bobby Capies,  
 10 ever sell, occasionally, during this time '92 to '96, towards  
 11 the circle?  
 12 A. Here and there, but it wasn't no stationary around there.  
 13 Q. And at that time, why not -- why not do it where you did  
 14 it in that part of Congress Park?  
 15 A. I mean, the older dudes was around there. I mean you  
 16 going to make some sales around there, but they only going to  
 17 let you do so much at that time.  
 18 Q. And when you say "at that time," was there a time when  
 19 you did end up selling at the circle?  
 20 A. Yes, sir.  
 21 Q. When was that?  
 22 A. It was before -- it was after '96, sir.  
 23 Q. Okay. And we're going to get to that.  
 24 But before then, before it was more allowed, during '92,  
 25 '96, did you ever get in trouble with any of the older guys in

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :  
Plaintiff, : Docket No. CR 05-100  
v. :  
ANTWUAN BALL, DAVID WILSON, : Washington, DC  
GREGORY BELL, DESMOND :  
THURSTON, JOSEPH JONES, and : April 2, 2007  
DOMINIC SAMUELS, : 9:15 a.m.  
Defendants. :  
: :  
:

VOLUME 27 - MORNING SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS  
UNITED STATES DISTRICT COURT JUDGE, and a JURY

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MORNING SESSION, APRIL 2, 2007

(10:12 a.m.)

THE DEPUTY CLERK: Criminal Case Number 05-100, *The United States versus Antwuan Ball, David Wilson, Gregory Bell, Desmond Thurston, Joseph Jones and Dominic Samuels*. For the government, Mr. Leon, Ms. Petalas and Mr. Guerrero. For defendants, Mr. Carney, Mr. Tabackman, Ms. Wicks, Mr. Proctor, Mr. Beane, Mr. Zucker, Mr. Martin, Mr. Arnold, Mr. Balarezo and Mr. Purpura.

THE COURT: All right. Good morning. Let me report on a couple of things. As I promised, we will take a break today at 4 and tomorrow at 4.

In addition, I wanted to let you know that on Thursday, April 19th, we will not sit in the morning; we will sit only in the afternoon. So we'll start up at 1 on Thursday, the 19th of April. We'll have no morning session, we'll just have an afternoon session and that will be at 1 p.m.

We had Juror Number 4 report this morning to Ms. Romero that someone at her workplace on Friday when she went to work asked her if she was serving on the Edelin trial and she said no and thought nothing of it. She gave further thought to it, however, and said she recalled having supervised another employee or two who had been related to one or more of the Edelins, perhaps two Edelins, who had been involved as defendants in some other trial.

She's apparently reported that just in the interest of

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(Thereupon, a break was had from 10:52 a.m. until 11:09 a.m.)

(Jury in at 11:09 a.m.)

THE COURT: Good morning, ladies and gentlemen.

THE JURY PANEL: Good morning.

THE COURT: Welcome back. We're ready to resume. Counsel.

BY MR. LEON:

Q. Mr. Capies, I believe when we just broke we were talking about Boy-Boy. Do you remember that?

A. Yes, sir.

Q. And you said that you bought -- you personally bought from Boy-Boy on a number of occasions?

A. Yes, sir.

Q. From what periods of time did you buy from Boy-Boy?

A. I mean, on and off since I started hustling.

Q. Well, you testified that you started hustling back in -- I think you said '92 or '93, correct?

A. '92, sir.

Q. Okay. So since then, up until when you were incarcerated --

A. Yes, sir.

Q. -- I would like to focus, though, on '96 to 2001. Did you buy frequently or infrequently from Boy-Boy?

A. Every now and then.

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Congress Park were supplied crack cocaine by Boy-Boy?

A. Yes, sir.

Q. And who were those people, that you know to --

MR. ZUCKER: Objection, basis.

THE COURT: Sustained.

BY MR. LEON:

Q. How do you know -- these other people you said yes about, how do you know that?

A. I seen it with my own eyes, sir.

Q. Let's take them one at a time, slowly. Well, first of all, just name all of them. '96 to 2001 are all my questions, with respect to this, okay? Who were the people you saw, with your own eyes, being supplied drugs with by Boy-Boy?

A. JT, Baby Kai, me, Jazz, Santu, Phil, Terrence, LT, Drano, Doo-Doo, Fat Tony, Dazz, Wop.

Q. Can you think of anyone else right now, or that's it?

A. That's all I can think of.

Q. Okay. I'm just going to ask about a few of them. I'm not going to go into all of them. You mentioned Jazz, with a J?

A. Yes, sir.

Q. First of all, does Jazz have any relation to any of the other people -- any of the other people you just mentioned, does he have any brothers?

A. Yes, sir.

Q. What's his brother's name?

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Q. Okay. And what do you mean by that?

A. When there ain't no coke around.

Q. Okay. And when there wasn't coke around, why would you -- first of all, what do you mean by that, when there wasn't coke around?

A. Like, if Wop ain't have no coke, I go to Boy-Boy.

Q. If Wop didn't have coke, you went to Boy-Boy?

A. Yes, sir.

Q. And if Wop didn't have coke, did Boy-Boy often have coke?

A. Yes, sir.

Q. If other people didn't have coke, did Boy-Boy often have coke?

A. Yes, sir.

Q. And so if you first needed to get coke, who would you go to?

A. Boy-Boy.

Q. Okay. And when you did, what amounts would you get from him?

A. Just wholesale.

Q. And give us an example of how much you would get from Boy-Boy?

A. I spent like \$200 with him.

Q. For \$200, how much would you get from him?

A. Forty dimes.

Q. First, just yes or no, do you know if other people in

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A. Boy-Boy and Santu.

Q. So Jazz would buy from Boy-Boy, his brother?

A. Yes, sir.

Q. And when you saw Jazz buying from Boy-Boy, tell us what you saw?

A. I just saw -- I don't know the amount, but I just used to see him get crack from him, sir.

Q. How often did you see Jazz getting crack from Boy-Boy?

A. I seen him do it a couple of times. It wasn't a lot, that I seen him get it from him.

Q. You mentioned Dazz, with a D?

A. Yes, sir.

Q. Tell us what you saw when you saw Dazz getting supplied crack cocaine from Boy-Boy?

A. I seen him get crack from him numerous times, sir.

Q. And do you know how much he was getting when he got the crack from Boy-Boy?

A. No, sir.

Q. Do you know if it was wholesale amounts or larger amounts?

A. Wholesale amounts.

Q. Do you know the specific amount of wholesales?

A. No, sir.

Q. And when you say "numerous times," can you put a number on that?

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- A. No, it was a lot.  
Q. Same question with respect to 1996 to 2001. You also mentioned Wop. How many times did you see Wop get supplied crack cocaine from Boy-Boy?  
A. A lot.  
Q. Can you put a number on "a lot"?  
A. No, sir.  
Q. Was this wholesale amount, larger amounts, or do you know?  
A. Wholesale and sometimes large amounts.  
Q. Okay. Well, let's talk about the larger amounts. The times that you saw Wop getting larger amounts from Boy-Boy, what were these amounts?  
A. I seen him, like, once get an ounce from him.  
Q. An ounce being -- how much weight is an ounce?  
A. Twenty-eight grams, sir.  
Q. And how much does an ounce cost?  
A. A thousand dollars.  
Q. Did you actually see money exchange during this time?  
A. No, sir.  
Q. Did you see the drugs, the crack being exchanged?  
A. Yes, sir.  
Q. And how did you know it was an ounce?  
A. Because I used to hang with Wop, and when he got it, he let me know what it was that he got from him, sir.

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- Q. When you -- when Wop -- did he show you the crack?  
A. Yes, sir.  
Q. And when Wop told you and then showed you the crack that he bought from Boy-Boy, what, if anything, did Wop do with that ounce of crack?  
A. I didn't see him break it down, but he told me he was going to break it down and serve it in dimes.  
Q. Do you know what an eight-ball is?  
A. Yes, sir.  
Q. What's an eight-ball?  
A. 3.5 grams, sir.  
Q. In your mind, is an eight-ball a wholesale or is it weight or is it neither?  
A. I mean, you can break it down sell it in wholesale, any of it, but 3.5 is serving a weight also.  
Q. I want to get back to Burke, just quickly, for a second. Did you ever -- just first, yes or no. Did you ever purchase Burke's crack from someone other than Burke directly?

MR. ZUCKER: Objection, basis of knowledge.

THE COURT: Overruled.

THE WITNESS: I can't remember that, sir.

BY MR. LEON:

- Q. Okay. Do you know somebody by the name of Quincy?  
A. Yes, sir.  
Q. Whose Quincy?

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- A. Somebody who be around Congress Park, but don't always be around in the Congress Park.  
Q. Okay. Did Quincy sell drugs in Congress Park?  
A. Certain people.  
Q. Okay. When -- which people did Quincy serve?  
A. KL.  
MR. ZUCKER: Objection, basis or just clarify the basis.  
MR. LEON: Let me even ask another foundational question.  
BY MR. LEON:  
Q. When Quincy sold crack in Congress Park, did he sell to actual users or did he supply to sellers?  
THE WITNESS: Sellers.

BY MR. LEON:  
Q. Did you ever know Quincy to actually sell hand-to-hand to users?

- A. No, sir.  
Q. So, when Quincy supplied people who then sold to users, do you know how much he would supply?

MR. ZUCKER: Objection, basis.

MR. LEON: Okay.

BY MR. LEON:  
Q. You said Quincy -- you said yes to the question, Quincy supplied people in Congress Park, correct?

- A. Yes, sir.  
Q. Okay. How do you know that?

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- A. He used to give me crack and I used to serve and give other people crack.  
Q. Let's talk about you. When you said Quincy gave you crack, did you pay for it?  
A. No, sir.  
Q. Did he front it for you and you paid him later?  
A. No, sir.  
Q. He just gave you crack?  
A. Yes.  
Q. Why'd he give you crack, if you know?  
MR. ZUCKER: Objection, basis.  
THE COURT: Overruled.  
MR. ZUCKER: Speculating on someone else's state of mind.  
BY MR. LEON:  
Q. I believe you can answer the question.  
A. He gave it to me -- like if rent due or I'm broke or something, I go to him and tell him, let me get something and he give it to me.  
Q. How much -- first of all, how many times did this happen, where he gave you crack?  
A. A lot of times.  
Q. Can you put a number on that?  
A. No, sir.  
Q. And did you ever pay him back in any way for that --  
A. No, sir.

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- Q. How many times would you say you personally bought drugs from Roadie?
- A. A lot.
- Q. During 1996 to 2001, did you buy from Roadie?
- A. Yes, sir.
- Q. Can you be specific as to when in that time period?
- A. It was in the early part of, like, '99 to, like, 2000.
- Q. Do you know, yes or no, if other people from Congress Park bought drugs from Roadie?
- A. Yes, sir.
- Q. Okay. How do you know that other people from Congress Park bought from Roadie?
- A. Because I be right there about to purchase some, too.
- Q. Okay. So you would see it?
- A. Yes, sir.
- Q. When you saw Roadie supply to other people in Congress Park, who were those other people?
- A. Dazz, Wop, Phil, a dude named Deon, another dude named Big Head Tony, DC, and EB.
- Q. And you were with the people you just mentioned when Roadie supplied them?
- A. Yes, I be right there. I wasn't with them, but sometimes I be right there, not all of them. I be with them.
- Q. Say the last part again.
- A. All of them, I wouldn't be with them at the time, we be

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probably going there together, but most of them I was with, like Dazz and Wop and Phil, I be with them.

- Q. Well, let's focus on them. When you would buy from Roadie, how much would you buy from Roadie?
- A. Like a half or a quarter.
- Q. When -- ever buy anything less than a half -- ever buy anything less than a quarter of an ounce from Roadie?
- A. No.
- Q. When you saw Wop buy from Roadie, what did he buy, what amounts?
- A. Like a half or an ounce.
- Q. Did you ever see Wop buy anything less than a half from Roadie?
- A. No, sir.
- Q. How many times would you say Wop bought from Roadie?
- A. A couple of times that I saw. I can't put no number on it, but it wasn't a lot that I saw.
- Q. Same question with respect to Dazz. When Dazz bought from Roadie, how much did you see Dazz buy from Roadie?
- A. I know he used to get coke from him. I can't remember what he was getting, though, sir.
- Q. Okay. Let's get back to Roadie and the conversation that you and Wop had about Roadie, okay? We're going back to Club U, but just before Club U --

MR. PURPURA: Objection, Your Honor, and we have to

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approach the bench briefly.

THE COURT: Say it again?

MR. PURPURA: Objection and can we approach the bench, briefly.

THE COURT: Yes.

(Following sidebar discussion had on the record:)

MR. PURPURA: Your Honor, it's obviously up to this point all the statements come in by the co-conspirators -- are coming in under 801(d)(2)(E). It's my understanding that as of May of 1999, this witness becomes a cooperative government witness.

THE COURT: This witness, meaning Mr. Capies?

MR. PURPURA: Yes, based on his plea agreement, May of '99. Therefore, any statements would not -- made directly to him without other co-conspirators present, would not be admissible under 801(d)(2)(E). They would be limited as an admission against the individual defendant who makes that statement and whose party makes that statement as an admission. We would all be entitled to a limited instruction under 105 at this point.

THE COURT: Are you talking about any statements that this witness testifies he heard from either Wop or from Roadie?

MR. PURPURA: That's correct.

THE COURT: That comes after the -- after the time that the witness had become a cooperating witness?

MR. PURPURA: Yes, sir.

THE COURT: All right.

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MR. LEON: I can represent this: That he was a -- he became a cooperating witness for the government, the FBI, Safe Streets in this case in -- I believe the agreement was signed in April of 2002. But I can proffer that he was debriefing with the government as early as July of 2001 when he was arrested, 2001. But counsel's correct that there was an earlier agreement with the Superior Court division of our office, which we've turned over in the course of this, so it's unrelated to this investigation, but there was an agreement, which this witness will talk about. Part of his testimony will be that he took it seriously for a while and then he didn't and he was off doing his own thing independently, and basically ignoring his handler, which was a homicide detective at the time.

THE COURT: Well, I don't see how his changed status as a cooperator effects in any way a statement from someone else who was an ongoing member of a conspiracy.

MR. PURPURA: I agree with the Court. I believe it comes in only as an admission now. It doesn't come in as a co-conspirator statement against other parties.

THE COURT: That's what I'm saying. I don't see how this witness' changed status has any impact on statements made by other people who are continuing members of an ongoing conspiracy. What difference does it make? These other people believed him to be who he isn't, but they make statements during the course of an ongoing conspiracy, in theory, in an effort to further that

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- Q. So what, if anything, did you say in response when he said "This would be a good time to make that move"?
- A. "Let's do it."
- Q. When Wop said this to you, did you have a gun with you?
- A. No, sir.
- Q. First of all, who else was there? It was you, Wop and who else?
- A. Me, Wop, Phil and Santu.
- Q. Was Dazz there when Wop said this?
- A. Yes, sir.
- Q. Was Santu there when Wop said this?
- A. Not right there at the conversation.
- Q. Okay. And what about Phil?
- A. Not right there at the conversation.
- Q. So it's just you, Dazz and Wop?
- A. Yes, but they was still in the club. We was waiting for them to come out.
- Q. Who was still in the club?
- A. Phil and Santu.
- Q. I want to focus in on who was there for the conversation, you Wop and Dazz?
- A. Yes, sir.
- Q. Did Dazz say anything once Wop said this would be a good time to make that move?
- A. He -- Wop told -- told us, said, "Come on, man, let's get

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- Phil and let's go." And Dazz was like, "Naw, I don't want him going with us on the move."
- Q. Did Dazz explain why he didn't want Phil to go on this move?
- A. That's his little brother. I guess he had his reasons.
- MR. TABACKMAN: Objection.
- THE COURT: Sustained.
- BY MR. LEON:
- Q. Did Phil go on the move?
- A. No, sir.
- Q. What did -- if you know, where did Phil go that night?
- A. Dazz told him to ride back with Santu.
- Q. And did you see them leave?
- A. We pulled out first. I didn't see them actually pull off.
- Q. Okay. But when you say "We rolled out," who's we?
- A. Me, Dazz and Wop.
- Q. Now, you said you "rolled out." What did you roll out in?
- A. In Wop's truck.
- Q. Can you describe it?
- A. It's like a '98, '99 or '99 Escalade truck.
- Q. Color?
- A. Black.
- Q. Who was driving the truck?

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- A. Wop.
- Q. And you said you did not have a weapon at that time. Do you know if Wop had a weapon?
- A. Yes.
- Q. Do you know if Dazz had a weapon?
- A. Naw, I don't think he had one, sir.
- Q. Okay. And at that point when you get in Wop's black Escalade, at that moment, do you know where you're going?
- A. Yes.
- Q. Where were you going at that point?
- A. I know we was going to make the move, but I didn't know exactly where it was at that moment, though.
- Q. Do you know if Wop knew where the move would be?
- A. Yes, it was his move, sir.
- Q. What do you mean by that?
- A. He knew the move. He knew where it was at. He had the ideas to go do it.
- Q. Did anyone force you to go with them?
- A. Naw, didn't nobody force me. I went on my own.
- Q. Did you choose to go with them?
- A. Yes, sir.
- Q. Where did you go?
- A. We went to South Capitol.
- Q. Tell us, how long did it take you to get from Club U to the part of South Capitol that you ended up making this move?

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- A. I'd say about 20 minutes.
- Q. And do you remember where on South Capitol, what cross street it was near?
- A. It was on South Capitol.
- Q. Do you know where on South Capitol or no?
- A. Naw, I just know it was on South Capitol, like Halley, Terrace and other streets, Galveston, down in that part.
- Q. Okay. Tell us what happened once Wop drove you all to that location, tell us what happened.
- A. He was like, we going to case it first, to see if his truck's out there.
- Q. Whose truck?
- A. My bad, I didn't mean to say truck, his car, Roadie's car.
- Q. Okay. Wop said this?
- A. Yes, sir.
- Q. And what, if anything, did you all do once Wop said this?
- A. We cased it to see if we seen his car out there.
- Q. Did you?
- A. No, it wasn't -- we didn't see it out there. It wasn't out there.
- Q. What kind of car were you looking for?
- A. A gray Crown Vic LTD.
- Q. Was that the car you seen Roadie in before?
- A. Yes, sir.

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- Q. Did you see any cars?  
A. Yeah, there was cars out there.  
Q. Now when you say "out there," describe what you drove up to? Was this a home? Was this an apartment complex? What was it?  
A. It was an apartment complex.  
Q. How big?  
A. It was jive big.  
Q. How many floors would you say it was, if you remember?  
A. I can't remember.  
Q. Okay. Now, when you said you cased the area, did you all get out of Wop's Escalade or did stay in it?  
A. We stayed in it and we found a parking spot.  
Q. Where did you find a parking spot?  
A. Across the street from where the spot was at.  
Q. So once you cased it and decided that Roadie's car was not there, tell us what, if anything you did next?  
A. We went over -- it was like everyone said Halley Place or Halley Terrace, right there, and parked in the back alley on the other side of the street from where the spot was at.  
Q. Okay. And then what'd you do?  
A. We was trying to -- once we parked, we was going -- trying to come to the conclusion who was going in there.  
Q. And tell us what, if anything, was said. Who said what?  
A. Wop said, "I know what we going to do." He was like, "Me

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- A. Yeah, I seen it before. Yes.  
Q. Can you describe it, other than the --  
A. It was -- I don't know which one he had that night, sir.  
Q. Okay. Can you describe the color of each of the guns you're thinking of?  
A. It was a chrome -- the 45 was chrome. The Glock, like a creamy color.  
Q. Okay. So tell us what happens. Do Wop and Dazz leave the '99 Escalade?  
A. Yes.  
Q. And do you see them leave?  
A. Yes, sir.  
Q. And tell us what you saw.  
A. Wop got the gun from up under the driver's seat, and --  
Q. And then what happened?  
A. He was like, "have the car ready" and he was like "Don't be having the music up all loud," because he know I like to listen to the music loud and they got out and went to the spot.  
Q. Did you see them go to a particular spot?  
A. They was going in that area, sir.  
Q. Did you see exactly where they went?  
A. Naw. Where it's at, it's a building and the building is blocked off and it's a cutoff to the side and I was down some, sitting in the truck, where the cut at, where you go to get to the spot.

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- and Dazz going to go in here, you stay here and have the car ready."  
Q. And did you agree with this?  
A. Yes, sir.  
Q. And did Dazz agree with this?  
A. Yes, sir.  
Q. And did Wop explain to you why he wanted to do it this way?  
A. Because he was, like, Dazz might have to kick the door in.  
Q. Why couldn't you kick the door in?  
A. Because his feet bigger than mine.  
Q. How big are your feet?  
A. I wear a nine and a half, sir.  
Q. Uhm, you said Wop had a gun. Do you remember the kind of gun it was?  
A. It was like a -- it had to be a Glock 40 or 45.  
Q. Why do you say it would have to be one of those?  
A. Because those were the only two guns he was carrying around at that time.  
Q. Do you know which of the two it was?  
A. I can't remember which one it was.  
Q. Did you see it that night?  
A. Yes, sir.  
Q. Did you see it before Wop went into this place?

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Official Court Reporter*

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- Q. And so at some point they leave your line of sight and you can't see them?  
A. Yes, sir.  
Q. Did there come a point after that when you saw them again?  
A. Yes. It was like ten minutes later.  
Q. And tell us what happened -- first of all, between those ten minutes, did you see or do anything?  
A. No.  
Q. Did you see Dazz or Wop?  
A. Not during the ten minutes that they was gone.  
Q. Okay. Let's go back to the ten minutes. After the ten minutes, tell us what you saw.  
A. They came back to the truck, sir.  
Q. And tell us what, if anything, Wop said?  
A. They jumped in. It was like -- I asked them what they get. They was, like, nothing. Pull off. And Wop was, like, I think I shot the dude.  
Q. And what, if anything, did he say after that?  
MR. ZUCKER: Your Honor, objection, same basis as was discussed at the bench. No need to approach.  
THE COURT: All right. Overruled.  
THE WITNESS: He was, like, "Go ahead, man, pull off, pull off."  
BY MR. LEON:

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :  
 Plaintiff, : Docket No. CR 05-100  
 v. :  
 ANTWAUN BALL, DAVID WILSON, : Washington, DC  
 GREGORY BELL, DESMOND : April 2, 2007  
 THURSTON, JOSEPH JONES, and : 1:55 p.m.  
 DOMINIC SAMUELS, :  
 Defendants. :  
 :  
 :

VOLUME 27 - AFTERNOON SESSION  
 TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
 BEFORE THE HONORABLE RICHARD W. ROBERTS  
 UNITED STATES DISTRICT COURT JUDGE, and a JURY

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Proceedings reported by machine shorthand, transcript produced by computer-aided transcription.

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 Official Court Reporter*

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1       AFTERNOON SESSION, APRIL 2, 2007

2       (1:00 p.m.)

3       THE COURT: Mr. Leon, are you ready for the jury?

4       MR. LEON: Yes.

5       (Jury in at 1:03 p.m.)

6       THE COURT: Good afternoon, ladies and gentlemen. Welcome

7       back. We're ready to resume. Mr. Leon?

8       MR. LEON: Thank you.

9       I just wanted to know if we could have the photograph

10      which is in front of the witness and counsel published to the

11      jury.

12      THE COURT: Is it in evidence?

13      MR. LEON: It is.

14      CONTINUED DIRECT EXAMINATION OF BOBBY CAPIES

15      BY MR. LEON:

16      Q.     Mr. Capies, you understand you're still under oath?

17      A.     Yes, sir.

18      Q.     When we broke for our lunch break, you were talking about  
 19      someone who you identified and recognized as Bo. Do you  
 20      remember that?

21      A.     Yes, sir.

22      Q.     And you identified the individual here depicted in  
 23      Government's 108.115 as the Bo you were referring to?

24      A.     Yes, sir.

25      Q.     How do you -- first of all, have you seen this person,

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 Official Court Reporter*

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1 Q. I'll ask also with respect to Terrence and Tweety. When  
 2 they were present, did either of them indicate they weren't --  
 3 didn't agree with retaliation?  
 4 A. No, they didn't.  
 5 Q. Did Wop ever tell you that he did retaliate?  
 6 A. Yes, sir.  
 7 MS. WICKS: Objection to leading, Your Honor.  
 8 THE COURT: All right. Rephrase.  
 9 MS. WICKS: Your Honor, I think previously the Court said  
 10 that he would narrow the focus down to when these conversations  
 11 occurred, and after he identified who he was with, and it hasn't  
 12 been done yet.

13 MR. LEON: I will. Okay.

14 BY MR. LEON:

15 Q. Let's go back to the conversations you had. Let's focus  
 16 on Dazz. I believe you said that you had conversations -- tell  
 17 me if this is correct or not, with Wop, where Dazz was present  
 18 when the conversation was about retaliation towards 10th Place.  
 19 A. Yes, sir.

20 Q. Okay. How many times would you say Dazz was present  
 21 during these conversations?

22 A. A couple. I don't have no number on it, sir.

23 Q. Can you put a time frame on this? In other words, when  
 24 did you have these conversations with Dazz and Wop regarding  
 25 retaliation?

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Official Court Reporter*

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1 A. It's like '97, early part.  
 2 Q. Early part of '97?  
 3 A. Yes, sir.  
 4 Q. Did -- during these conversations in the early part of  
 5 '97 that you're having with Wop and Dazz, you said, I believe,  
 6 that Wop -- excuse me, that Dazz did not disagree with the talk  
 7 of retaliation. Did Dazz ever say anything himself about  
 8 retaliation?  
 9 A. Yes, sir.  
 10 Q. Tell us what Dazz said about retaliation.  
 11 A. That they went down there and got in a shootout with some  
 12 guys with 10th Place.  
 13 Q. Who told you this?  
 14 A. Dazz.  
 15 Q. When did Dazz tell you this?  
 16 A. I don't got no date on it, sir, but I remember him  
 17 telling me in the early part of '97.  
 18 Q. Early part of?  
 19 A. '97.  
 20 MR. ZUCKER: Could I ask the witness to define what is the  
 21 early part of '97? Is there any way to focus it?  
 22 THE COURT: No.  
 23 BY MR. LEON:  
 24 Q. What is the early part of '97 to you, Mr. Capies?  
 25 A. January, February.

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Official Court Reporter*

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1 Q. Okay. Was this a specific conversation you can remember?  
 2 A. Yes.  
 3 Q. Tell us the specific conversation you remember having in  
 4 January, February, where Dazz told you about retaliating.  
 5 A. He told me that him, Antwuan, LT, and Wop went down  
 6 10th Place to try to creep down on them guys, and somebody  
 7 opened fire on them, which they believe was Steve and Patrick,  
 8 and they stopped the car and jumped out and opened fire back.  
 9 Q. Okay. You've said a few things there. Let's just follow  
 10 up. First of all, Dazz told you about this?  
 11 A. Yes, sir.

12 Q. And he told you that Dazz was there and who else?

13 A. LT, Twan, and Wop.

14 Q. So four people in total?

15 A. Yes, sir.

16 Q. Okay. And where did this shooting happen?

17 A. On 10th Place.

18 Q. Did he tell you where on 10th Place?

19 A. No. He just said 10th Place.

20 Q. And did Dazz tell you who's idea it was to drive to  
 21 10th Place to do this shooting?

22 A. I don't remember.

23 Q. Okay. And did he tell you how they got there?

24 A. Yes. By car.

25 Q. Did he tell you whose car?

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Official Court Reporter*

5310

1 A. No, I don't remember, sir.  
 2 Q. Okay. And did he tell you who from Congress Park, who  
 3 from the group Dazz was with, actually fired weapons?  
 4 A. All of them that was in the car that I named.  
 5 Q. All four?  
 6 A. Yes.  
 7 Q. And I believe you said that they were firing at Steve and  
 8 Patrick?  
 9 A. Yes.  
 10 Q. Anybody else?  
 11 A. A dude named Redhead.  
 12 Q. Redhead. And did Dazz indicate to you whether or not  
 13 either Redhead or Steve or Patrick, any of those three fired  
 14 back?  
 15 A. Yes.  
 16 Q. Did they?  
 17 A. Yes.  
 18 Q. Who?  
 19 A. Steve and Patrick.  
 20 Q. And?  
 21 A. And Redhead.  
 22 Q. So all three did fire back?  
 23 A. Yes.  
 24 Q. Did Dazz indicate to you if anyone, anyone from  
 25 Congress Park or anyone from 10th Place, was actually hit with

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Official Court Reporter*

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, : Docket No. CR 05-100  
: :  
Plaintiff : :  
: :  
v. : Washington, DC  
: :  
ANTWUAN BALL, : :  
DAVID WILSON, : :  
GREGORY BELL, : April 3, 2007  
DESMOND THURSTON, : :  
JOSEPH JONES, : :  
DOMINIC SAMUELS, : :  
: :  
Defendants : 2:05 p.m.  
\* \* \* \* \* : \* \* \* \* \*

VOLUME 28 - AFTERNOON SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS,  
UNITED STATES DISTRICT JUDGE, and a jury

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Page 5626

1 Q. What is 1104?

2 A. My plea agreement.

3 Q. What's the date on that?

4 A. May 9th, 2002.

5 Q. May 9th of 2002?

6 A. Yes, sir.

7 Q. And you mentioned that you had a lawyer, I believe her name  
8 was Hoover-Hankerson, with respect to the other agreement you  
9 had?

10 A. Yes, sir.

11 Q. Do you have the same lawyer in connection with this case?

12 A. No, sir.

13 Q. Who is your lawyer in this case?

14 A. A guy named Paul Hunt.

15 Q. And what did you plead to?

16 A. Up to life in prison.

17 Q. What was the charge you pled to?

18 A. Oh. One count of distributing cocaine.

19 Q. Okay. And what else?

20 A. Aiding and abetting and -- first-degree to murder, aiding  
21 and abetting Devar Chandler.

22 Q. And for the record, who is Devar Chandler?

23 A. D-Lock.

24 Q. You said two things. You said aiding and abetting the  
25 murder of Devar Chandler, D-Lock, and you said distribution.

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- 1 What kind of distribution?
- 2 A. Crack cocaine and cocaine.
- 3 Q. Do you understand what the general charge, the charge is
- 4 that you pled to?
- 5 A. Yes, sir.
- 6 Q. What is it?
- 7 A. It's a RICO.
- 8 Q. Where did you plead guilty? Physically, where were you when
- 9 you pled guilty?
- 10 A. In front of Judge Roberts.
- 11 Q. His Honor?
- 12 A. Yes, sir.
- 13 Q. And before you pled guilty, did you have a chance to review
- 14 that document, Government's 1104, with your lawyer, Paul Hunt?
- 15 A. Yes, sir.
- 16 Q. And did you go over it thoroughly?
- 17 A. Yes, he read it with me.
- 18 Q. Did he explain things to you?
- 19 A. Yes, sir.
- 20 Q. Before you entered into that agreement, did you learn how
- 21 much time you could get as a result of pleading guilty to this
- 22 RICO?
- 23 A. Yes, sir.
- 24 Q. What is your understanding as to how much time you can get
- 25 for pleading guilty to this RICO?



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1 A. Yes, sir -- I mean, yes, ma'am. I'm sorry.  
 2 Q. Was that a lie or was that the truth?  
 3 A. That was the truth.  
 4 Q. I was a sir?  
 5 A. No.  
 6 Q. You testified on December 9th of 2003, correct?  
 7 A. Yes, I did.  
 8 MR. LEON: I'm sorry, which date?  
 9 MS. WICKS: December 9th, 2003.  
 10 Court's indulgence.  
 11 BY MS. WICKS:  
 12 Q. And when you testified, you were under oath when you  
 13 testified back on December 9th, 2003, correct?  
 14 A. Yes, ma'am.  
 15 Q. And when you testified against Mr. Wilson in December of  
 16 2003, it was after you pled guilty in May of 2002, correct?  
 17 A. Yes, ma'am.  
 18 Q. So, in your words, it was under the same cooperation  
 19 agreement, correct --  
 20 A. Yes.  
 21 Q. -- as you're testifying today, correct?  
 22 A. Yes, ma'am.  
 23 Q. And when you testified, you were asked the following  
 24 questions and gave the following answers --  
 25 MR. LEON: Can I have the page and line number?

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5752

1 MS. WICKS: Sure. 451.  
 2 MR. LEON: Your Honor, can I talk with counsel, quickly?  
 3 THE COURT: Yes.  
 4 (Discussion had off the record.)  
 5 BY MS. WICKS:  
 6 Q. And on that day, Mr. Beatrice was asking the questions,  
 7 correct?  
 8 A. Yes, ma'am.  
 9 Q. And Mr. Beatrice asked you, "The police" -- I'm sorry.  
 10 Ms. Lotze was representing Mr. Wilson, correct?  
 11 A. Yes, ma'am.  
 12 Q. And Ms. Lotze asked you "The police were the first people  
 13 to say David Wilson's name," and you answered "right"?  
 14 A. May I see my transcript, please, ma'am?  
 15 Q. Sure.  
 16 MS. WICKS: Your Honor, may I approach and show him  
 17 Defense 17 O.  
 18 BY MS. WICKS:  
 19 Q. Looking at 17 O the first page indicates this is the  
 20 transcript from December 9th, 2003, the United States versus  
 21 David Wilson, correct?  
 22 A. Yes, ma'am.  
 23 Q. And on page 363, line 23, it indicates that you were  
 24 called as a witness, correct?  
 25 A. Yes, ma'am.

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Official Court Reporter*

5753

1 MR. LEON: Your Honor, can we just briefly approach?  
 2 THE COURT: Yes.  
 3 (Following sidebar discussion had on the record:)  
 4 MR. LEON: I understand what counsel is doing, but I want  
 5 to be clear. I believe the witness' answer was, "I don't  
 6 recall," so this should be refreshing and not impeaching.  
 7 THE COURT: Correct.  
 8 MS. WICKS: Sure. I'll have him look at the page again.  
 9 (Sidebar discussion concluded.)  
 10 MS. WICKS: And for the record, I'm directing your  
 11 attention to page 452, lines 4 through 6.  
 12 BY MS. WICKS:  
 13 Q. That's what the question was and that was your answer,  
 14 correct?  
 15 A. Yes.  
 16 MR. LEON: Objection.  
 17 THE COURT: Sustained, but it's delayed. Sustained.  
 18 BY MS. WICKS:  
 19 Q. Well, looking at that, does that refresh your  
 20 recollection as to the question and answer that day?  
 21 A. Yes. David Wilson.  
 22 Q. And who brought up David Wilson?  
 23 A. That day, I know they questioned me about David Wilson  
 24 and they asked me did I know David Wilson, and I told them "Yes,  
 25 I know David Wilson."

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Official Court Reporter*

5754

1 Q. Okay. Well, when you talked to them that day, you didn't  
 2 walk in and volunteer, "Hey guys, I know David Wilson," correct?  
 3 A. No.  
 4 Q. The police asked you if you knew David Wilson, correct?  
 5 A. Yes, ma'am.  
 6 Q. Now, when was the first time you were locked up at Oak  
 7 Hill?  
 8 A. Like '92.  
 9 Q. Okay. And back in 1992, how much of 1992 did you spend  
 10 locked up at Oak Hill?  
 11 A. I can't remember that. I know it wasn't that long.  
 12 Q. When you say not "that long," do you mean a day, a week,  
 13 a month, half the year, or you just don't know?  
 14 A. It was some months. It wasn't that long, though.  
 15 Q. Back in '93, were you locked up in any portion of 1993 in  
 16 Oak Hill?  
 17 A. I was real bad back then, I was in and out of jails,  
 18 ma'am.  
 19 Q. Well, specifically in 1993, do you recall what portion of  
 20 1993 you spent locked up in Oak Hill?  
 21 A. Naw, I can't remember.  
 22 Q. 1994. Can you recall what portion of 1994 you spent  
 23 locked up at Oak Hill?  
 24 A. No, I was back and forth in shelter houses.  
 25 Q. In 1994. Did you run from the shelter house?

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- 1 A. I can't remember. I remember running from Oak Hill,  
2 sometime in '95.
- 3 Q. Okay. And specifically, when you ran from Oak Hill, you  
4 had gotten a shackle key, correct?
- 5 A. Yes.
- 6 Q. And so when you were out in the community, but shackled  
7 up, you escaped using that shackle key, correct?
- 8 A. Yes, ma'am.
- 9 Q. And do you recall when that was in 1995 that you escaped  
10 from Oak Hill?
- 11 A. I remember it was hot outside. I don't remember what  
12 month.
- 13 Q. Do you recall -- pardon me.
- 14 Do you recall how long you had spent at Oak Hill prior to  
15 escaping in 1995?
- 16 A. Not that long.
- 17 Q. Days, weeks, or months?
- 18 A. Not that long. I don't remember.
- 19 Q. You didn't like it at Oak Hill, correct?
- 20 A. No, ma'am.
- 21 Q. Now, do you recall when it was -- when you got locked up  
22 in '96, you went to Oak Hill, correct?
- 23 A. Yes.
- 24 Q. And do you recall if you were just locked up on the  
25 custody order from escaping or were you locked up on a new

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Official Court Reporter*

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- 1 charge?
- 2 A. From escaping.
- 3 Q. And as a juvenile -- I'll withdraw that.
- 4 Do you recall what month it was that you got locked up  
5 for escaping from Oak Hill?
- 6 A. Rephrase the question, again, please, ma'am.
- 7 Q. Well, in 1996, you got locked up and went back to Oak  
8 Hill, correct?
- 9 A. Yes, ma'am.
- 10 Q. Do you recall when it was that you got locked up and went  
11 back to Oak Hill?
- 12 A. It was some months after this guy had died. I remember,  
13 because it was like a month or two after he died.
- 14 Q. And which guy was that?
- 15 A. It was Truck.
- 16 Q. So, months after Truck got killed in 1996, you went back  
17 to Oak Hill, correct?
- 18 A. Yes, like a month.
- 19 Q. So just one month, maybe?
- 20 A. Yes, maybe like one month.
- 21 Q. Do you remember if it was hot or cold outside?
- 22 A. It was kind of hot.
- 23 Q. So, springtime or summer?
- 24 A. Maybe spring. I'm not sure.
- 25 Q. Well, do you recall spending the summer down in Oak Hill

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Official Court Reporter*

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- 1 in 1996?
- 2 A. Yes.
- 3 Q. So, sometime before -- sometime in May or June of '96?
- 4 A. It's around that time. I don't got no specific day. I'm  
5 not just going to tell you anything, ma'am.
- 6 Q. Well, you were arrested as an adult in August '96,  
7 correct?
- 8 A. Yes. I don't remember that.
- 9 Q. You don't remember that?
- 10 Do you recall when you were arrested for distribution and  
11 possession with intent to distribute marijuana in 1996?
- 12 A. No, ma'am. I know I was arrested as an adult in '96  
13 sometime, but I don't remember. I thought it was like -- it was  
14 hot out.
- 15 Q. And that was before or after you went to Oak Hill in  
16 1996?
- 17 A. It had to be before.
- 18 Q. When you got arrested as an adult for the distribution  
19 and possession with intent to distribute marijuana, where was  
20 that?
- 21 A. I was hanging uptown, back and forth.
- 22 Q. Up on 14th and Gerard, correct?
- 23 A. 13th -- yeah, 14th and Gerard.
- 24 Q. And that was with Cadoza Simms, correct?
- 25 A. No, it was not with Cadoza Simms.

*Scott L. Wallace, RDR, CRR  
Official Court Reporter*

5758

- 1 Q. Well, you knew Cadoza Simms from 14th and Gerard,  
2 correct?
- 3 A. Yes.
- 4 Q. Did you ever have any problems with Cadoza Simms at 14th  
5 and Gerard?
- 6 MR. LEON: Objection.
- 7 THE WITNESS: No, ma'am.
- 8 MR. LEON: Objection, beyond the scope.
- 9 MS. WICKS: May we approach?
- 10 THE COURT: Yes.  
(Following sidebar discussion had on the record:)
- 11 MR. LEON: Your Honor, I asked a lot of questions. I  
12 didn't ask about that.
- 13 MS. WICKS: He did talk about the portion of time when he  
14 was staying uptown when he was on the run from Oak Hill, and  
15 that's what I'm going into, that period of time.
- 16 THE COURT: One second. What's the relevance?
- 17 MS. WICKS: Because the rumor at Oak Hill was that he was  
18 hot and that he had talked to the police about Cadoza Simms, who  
19 was locked up for a murder at 14th and Gerard.
- 20 THE COURT: What's the relevance?
- 21 MS. WICKS: What's the relevance of the rumor that he was  
22 hot?
- 23 THE COURT: What's the relevance of what you just told me,  
24 yes.

*Scott L. Wallace, RDR, CRR  
Official Court Reporter*

Page 5802

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, : Docket No. CR 05-100  
: :  
Plaintiff : :  
: :  
v. : Washington, DC  
: :  
ANTWUAN BALL, : :  
DAVID WILSON, : :  
GREGORY BELL, : April 4, 2007  
DESMOND THURSTON, : :  
JOSEPH JONES, : :  
DOMINIC SAMUELS, : :  
: :  
Defendants : 2:00 p.m.  
\* \* \* \* \* : \* \* \* \* \*

VOLUME 29 - AFTERNOON SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS,  
UNITED STATES DISTRICT JUDGE, and a jury

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Page 5825

1 Q. Right. But the guidelines tell him that he has to stay  
2 within there. Correct?

3 A. Yes.

4 Q. And if there's no 5(k) motion, he can't give you 10 years.  
5 Correct?

6 A. If that's what's on his mind.

7 Q. If that's -- that's your understanding?

8 A. If that's what's on the judge mind, whatever he want to give  
9 me. They could file a motion and I could still get life.

10 Q. Okay. My question as to do with, if the motion is not  
11 filed.

12 A. If they don't file, I can get life.

13 Q. I understand that. My question is, if they don't file it,  
14 the judge cannot go below 30 years. Correct?

15 A. That's the judge. He do what he want to do.

16 Q. So he can do whatever he wants to do at sentencing, is what  
17 you're saying?

18 A. Yes. He's the judge.

19 Q. So it really doesn't matter if you have an agreement.

20 Correct?

21 A. Yeah, it matter. I want him to be lenient on me.

22 Q. Okay. So the fact that you have an agreement, you're hoping  
23 he'll be lenient. Correct?

24 A. If they file the 5(k)(1) motion.

25 Q. Okay. But if they don't file the 5(k)motion, can he be

6343

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :  
 Plaintiff, : Docket No. CR 05-100  
 v. :  
 :  
 ANTWAN BALL, DAVID WILSON, : Washington, DC  
 GREGORY BELL, DESMOND :  
 THURSTON, JOSEPH JONES, and : April 11, 2007  
 DOMINIC SAMUELS, : 9:15 a.m.  
 Defendants. :  
 :  
 :

VOLUME 32 - MORNING SESSION  
 TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
 BEFORE THE HONORABLE RICHARD W. ROBERTS  
 UNITED STATES DISTRICT COURT JUDGE, and a JURY

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6343

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Proceedings reported by machine shorthand, transcript produced  
 by computer-aided transcription.

*Scott L. Wallace, RDR, CRR  
 Official Court Reporter*

6345

MORNING SESSION, APRIL 11, 2007

1  
 2 (9:18 a.m.)  
 3 THE COURT: This is a test to see if this is actually  
 4 going to work this time. We'll see after a short while, after  
 5 the witness is on the stand and talks for about 30 minutes.  
 6 All right. Mr. Balarezo, you're in the middle of your  
 7 cross?  
 8 MR. BALAREZO: Yes, Your Honor.  
 9 THE COURT: Are you ready for the jury?  
 10 MR. BALAREZO: Your Honor, I am. I was wondering if the  
 11 Court would allow me one minute ex parte at the bench so  
 12 Mr. Samuels can hear?  
 13 THE COURT: Is it something that can wait till the break?  
 14 MR. BALAREZO: Yes.  
 15 THE COURT: All right. Are you otherwise ready for the  
 16 jury? I will take you ex parte at the break.  
 17 MR. BALAREZO: Thank you.  
 18 THE COURT: Are you ready for the jury?  
 19 Mr. Balarezo, are you ready for the jury otherwise?  
 20 MR. BALAREZO: I am, Your Honor. Thank you.  
 21 THE COURT: Are you good to go today?  
 22 MR. TABACKMAN: Yes.  
 23 THE COURT: Okay.  
 24 (Jury in at 9:20 a.m.)  
 25 THE COURT: Good morning, ladies and gentlemen.

*Scott L. Wallace, RDR, CRR  
 Official Court Reporter*

6435

1 Q. The FBI had you under surveillance selling drugs when you  
 2 were supposed to be cooperating, right?

3 A. Yes, sir.

4 MR. LEON: I just object to the time frame, Your Honor.  
 5 He was just talking about '99. I was talking about another time  
 6 frame. I object to the form.

7 BY MR. ZUCKER:

8 Q. You were released in '99. You've seen yourself on tape  
 9 in 2000 here, heard yourself in this courtroom, selling drugs  
 10 with Sandra Wilson, right in this courtroom, two days ago,  
 11 right?

12 A. Two days ago?

13 Q. Well, four days ago; whatever it was last week.

14 A. Yes, sir.

15 Q. Okay. That was while you were supposed to be cooperating  
 16 with them, right?

17 A. I didn't see myself; I heard myself.

18 Q. Fine. You're acknowledging it was you, right?

19 A. Yes, sir.

20 Q. And you did that on the stand, right?

21 A. Yes, sir.

22 Q. The whole time you're supposed to be cooperating and not  
 23 breaking the law, you're out there breaking the law. You see  
 24 yourself on FBI -- or hear yourself on FBI transcripts and they  
 25 don't do anything about it, do they?

*Scott L. Wallace, RDR, CRR  
Official Court Reporter*

6436

1 A. I told you I had bad blood with that homicide, sir. If  
 2 you want to know the reason, I would like to surely tell you.

3 Q. That wasn't the question I asked you.

4 A. I told you I had bad blood with the homicide.

5 Q. Sir, what I'm asking you is this: You were supposed to  
 6 be cooperating, supposed to not be breaking the law. The FBI  
 7 has you on tape, live, dealing drugs, and they don't do a thing  
 8 about it, do they?

9 A. Yeah, I'm locked up. They did something about it. 2001,  
 10 I ain't been released since.

11 Q. A year later, a year later, right?

12 A. I guess so.

13 Q. So they leave you out there, knowing you're breaking the  
 14 law, knowing you're robbing, dealing, stealing, when you're  
 15 supposed to be cooperating, and nothing happens for at least a  
 16 year, right?

17 MR. LEON: Objection to what people knew at that time.

18 THE COURT: Sustained.

19 BY MR. ZUCKER:

20 Q. From 1996 until you're arrested in 2001, did anybody in  
 21 Congress Park commit a murder and not confess to you?

22 MR. LEON: Objection. Form. It's possible -- objection  
 23 to form and argumentative.

24 THE COURT: Why don't you rephrase?

25 BY MR. ZUCKER:

*Scott L. Wallace, RDR, CRR  
Official Court Reporter*

6437

1 Q. Do you know of anyone between 1996 and 2001 in Congress  
 2 Park who committed a murder that didn't confess to you?

3 MR. LEON: Same objection.

4 THE COURT: I'll let him answer yes or no.

5 People have confessed to me. I haven't seen it sir.

6 BY MR. ZUCKER:

7 Q. That wasn't the question.

8 A. Well, you got to break it down a little better, because  
 9 that's what I thought you were saying.

10 Q. From 1996 until 2001, do you know of anyone who committed  
 11 a murder in the Congress Park neighborhood that did not confess  
 12 to you, did not tell you that they did it?

13 THE COURT: Do you understand the question?

14 THE WITNESS: I don't understand what he's saying.

15 BY MR. ZUCKER:

16 Q. Okay. Let's take it step-by-step. 1996 to 2001. Those  
 17 refer to the years 1996 to 2001.

18 A. I know that. You ain't got to --

19 Q. I'm trying to break it down for you. I'm not trying to  
 20 insult you, sir?

21 A. I don't care if you do, that's your job.

22 Q. You know what commit murder means, right?

23 A. Yes, I help commit a murder.

24 Q. You know what confess murder means, right?

25 A. Yes, saying you done it.

*Scott L. Wallace, RDR, CRR  
Official Court Reporter*

6438

1 Q. You know where Congress Park is, right?

2 A. Yes.

3 Q. Okay. So let's put that question together. From 1996,  
 4 the year 1996 to the year 2001, do you know of anyone who  
 5 committed a murder in Congress Park that did not confess to you?

6 A. No.

7 Q. Now, you described in great detail during the  
 8 government's direct who you associated with at different times,  
 9 different periods in Congress Park, right?

10 A. Yes, sir.

11 Q. And there was one period in '92 to '93 and then '94 to  
 12 '96, and I don't want to rehash all of that.

13 Never once did you ever identify a man named Dip as a  
 14 close confident or associate of yours, did you?

15 A. I already testified in his case, sir.

16 Q. I'm just trying to summarize.

17 You identified Dip in a photo, but you never identified  
 18 him as anybody you were close to in '92, '93, '94 to '96, any  
 19 time, he was not part of your little -- one of your running  
 20 buddies?

21 A. He was cool.

22 Q. That wasn't my question. That wasn't my question.

23 Everybody's cool. I mean, you're cool with everybody  
 24 you're not trying to kill, right -- you're not beefing with,  
 25 everybody else is cool, right?

*Scott L. Wallace, RDR, CRR  
Official Court Reporter*

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, : Docket No. CR 05-100  
: :  
Plaintiff : :  
v. : Washington, DC  
: :  
ANTWUAN BALL, : :  
DAVID WILSON, : :  
GREGORY BELL, : April 11, 2007  
DESMOND THURSTON, : :  
JOSEPH JONES, : :  
DOMINIC SAMUELS, : :  
: :  
Defendants : 1:50 p.m.  
. . . . . : . . . . .

VOLUME 32 - AFTERNOON SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS,  
UNITED STATES DISTRICT JUDGE, and a jury

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Page 6531

1 Q. I take it you were locked up in the summer of '96. Correct?

2 A. Yes.

3 Q. And then in September of '96, Head got killed. Right?

4 A. Yes.

5 Q. And in October of '96, Meatball got killed. Right?

6 A. Yes, sir.

7 Q. And then you got released the following -- well, two months

8 later, in December of '96. Right?

9 A. Yes, sir.

10 Q. And you told us about conversations you had regarding  
11 retaliation.

12 A. Yes, sir.

13 Q. All right. And you had several of those conversations.

14 Right?

15 A. Yes, sir.

16 Q. And you had them with -- well, you claim you had them with  
17 Wop and LT and my client, Dazz. Right?

18 A. Yes, sir.

19 Q. And Dazz in particular you had a feud with, and he told you  
20 how they tried to creep up on 10th Place and shoot them up.

21 Right?

22 A. Yes, sir.

23 Q. And that they got into a shoot-out with two guys named  
24 Steven and Patrick. Right?

25 A. Yes, sir.

Page 6532

1 Q. And these conversations occurred in early '97, shortly after  
2 your release. Right?

3 A. Yes, sir.

4 Q. And where did these conversations occur?

5 A. I remember talking to him, like '97.

6 Q. Well, let's talk about -- the question was, where?

7 A. Around Congress Park.

8 Q. Well, in particular you said it was shortly after you were  
9 released. And when we asked you, you said it was January or  
10 February of '97. Correct?

11 A. It was sometime in '97.

12 Q. You said January or February of '97, right after you were  
13 released.

14 A. That's when I was released, in '96 of December. So it had  
15 to be.

16 Q. Had to be January or February of '97?

17 A. Yes, sir.

18 Q. Where did they occur, this conversation, particularly the  
19 conversation with my client, Dazz?

20 A. I can't remember, sir. But I remember talking to him.

21 Q. You don't remember the location?

22 A. I can't remember right now.

23 Q. Do you remember whether it was inside or outside?

24 A. I remember talking to him.

25 Q. I understand that. The question is, where did you talk to

Page 6533

1 him, inside or outside?

2 A. I can't remember right now, sir.

3 Q. Night or day?

4 A. I can't remember.

5 Q. What was he wearing?

6 A. I can't remember.

7 Q. Who else was there?

8 A. I can't remember that right now. I remember talking to him,  
9 sir.

10 Q. All you can remember is that it was January or February of  
11 '97 -- well, right after -- shortly after your release. Right?

12 A. Yes. And I also talked to him again about other things,  
13 too.

14 Q. All right. All right. But you can't remember where, when,  
15 what time of day, inside, out, about these conversations in  
16 January or February of '97, sitting here today, can you?

17 A. I'm testifying about a rack of stuff. If I could remember  
18 accurately every detail, then I wouldn't be right here.

19 Q. Why not?

20 A. I can't hear you.

21 Q. I said, "Why not?" Why wouldn't you be here?

22 A. Because I would have made all these smart decisions not to  
23 put myself into this situation if I was so perfect.

24 Q. But you do recall speaking to Dazz in particular several  
25 time in January and February of '97. Right?

# EXHIBIT B

8235

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :  
 Plaintiff, : Docket No. CR 05-100  
 :  
 v. :  
 :  
 ANTWAN BALL, DAVID WILSON, : Washington, DC  
 GREGORY BELL, DESMOND :  
 THURSTON, JOSEPH JONES, and : April 24, 2007  
 DOMINIC SAMUELS, : 9:25 a.m.  
 :  
 Defendants. :  
 :  
 :

VOLUME 39 - MORNING SESSION  
 TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
 BEFORE THE HONORABLE RICHARD W. ROBERTS  
 UNITED STATES DISTRICT COURT JUDGE, and a JURY

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8235

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8236

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Proceedings reported by machine shorthand, transcript produced  
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1

MORNING SESSION, APRIL 24, 2007

2 (9:28 a.m.)

3 THE COURT: All right. Mr. Guerrero, are you ready for  
 4 the jury?

5 MR. GUERRERO: Yes, Your Honor, we are.

6 (Jury in at 9:29 a.m.)

7 THE COURT: Good morning, ladies and gentlemen.

8 THE JURY PANEL: Good morning.

9 THE COURT: Welcome back. We're ready to resume.

10 Counsel.

11 MR. GUERRERO: Thank you, Your Honor.

CONTINUED DIRECT EXAMINATION OF CEDRIC CONNERBY MR. GUERRERO:

14 Q. Good morning, sir.

15 A. Good morning.

16 Q. Would you please introduce yourself once again for the  
 17 record.

18 A. Cedric Conner.

19 Q. And, Mr. Conner, yesterday afternoon we left off with the  
 20 topic of your stash houses down in Congress Park and we were  
 21 about to start talking about a person named Kiki. Do you  
 22 remember that?

23 A. That's correct.

24 MR. GUERRERO: Mr. Mazzitelli, if we may pull up 100.1,  
 25 please.

*Scott L. Wallace, RDR, CRR  
 Official Court Reporter*

8355

- 1 A. I understood.  
 2 MR. BALAREZO: Can I put this up?  
 3 BY MR. BALAREZO:  
 4 Q. 1106, can you see that? Is it showing? Do you  
 5 understand that pursuant to the statute, the charge carries a  
 6 term of imprisonment of not less than ten years or more than  
 7 life, right?  
 8 A. That's correct.  
 9 Q. So, when I just asked you that, what you're looking at  
 10 right now is a mandatory -- at least a mandatory ten-year  
 11 sentence in prison, that's what you're facing right now, right?  
 12 A. Yes.  
 13 Q. And it could go as high as life, right?  
 14 A. Life, correct.  
 15 Q. And Mr. Guerrero, the prosecutor, also asked you a  
 16 question about the guidelines, and you're very familiar with the  
 17 guidelines, right?  
 18 A. Yes.  
 19 Q. You understood them, you're a smart man, correct?  
 20 A. Yes.  
 21 Q. Your guidelines at the level 38 that you're talking  
 22 about, I believe is about 168 to 235 months, correct?  
 23 A. Correct.  
 24 Q. Which is substantially more than the ten-year mandatory  
 25 minimum that the statute provides for, correct?

*Scott L. Wallace, RDR, CRR  
Official Court Reporter*

8356

- 1 A. Yes.  
 2 Q. And, of course, you don't want to do any of that time,  
 3 right?  
 4 A. That's correct.  
 5 Q. And you've already done ten -- excuse me, 20 days, that's  
 6 enough for you, right?  
 7 A. Yes.  
 8 Q. And by your testimony here today, you're hoping to avoid  
 9 any prison time?  
 10 A. Yes.  
 11 Q. And you've been out since -- at least since around the  
 12 time that you pled guilty in 2003, right?  
 13 A. That's correct.  
 14 Q. And you have not been sentenced yet?  
 15 A. That's correct.  
 16 Q. Because basically, the government was waiting for you to  
 17 testify here, right?  
 18 MR. GUERRERO: Objection form.  
 19 THE COURT: Sustained.  
 20 BY MR. BALAREZO:  
 21 Q. Well, part of your cooperation required that you testify,  
 22 right?  
 23 A. Yes.  
 24 Q. And that's what you're doing here today --  
 25 A. Yes.

*Scott L. Wallace, RDR, CRR  
Official Court Reporter*

8357

- 1 Q. -- against these gentlemen over here, right (indicating)?  
 2 A. Yes.  
 3 Q. All right. Now, yesterday you testified about an  
 4 individual by the name of Don. I think you spelled it at one  
 5 time, D-O-N?  
 6 A. Yeah, Dom, Don. I wasn't sure.  
 7 Q. Right. Or D-O-M?  
 8 A. Correct.  
 9 Q. And to you, D-O-N -- or the person that goes by D-O-N or  
 10 on goes by D-O-M, like Mary, is one person, right?  
 11 A. Correct.  
 12 Q. And I think you pointed him out, the gentleman here with  
 13 the brown tie?  
 14 A. That's correct.  
 15 Q. And you've -- you're close friends with him?  
 16 A. No, I'm not.  
 17 Q. But yesterday, you said you grew up with him?  
 18 A. Well, grew up in the same vicinity.  
 19 Q. Well, you said you grew up with him. Do you remember  
 20 that?  
 21 A. I probably said that.  
 22 Q. Okay. Are you changing that today?  
 23 A. Oh, no, I'm not.  
 24 Q. You were testifying under oath yesterday, right?  
 25 A. That's correct.

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- 1 Q. And are you testifying under oath today?  
 2 A. Yes, I am.  
 3 Q. Now yesterday you were asked by the prosecutor -- well,  
 4 one of the things you said is, to get the 5K you had to tell the  
 5 truth, right?  
 6 A. That's correct.  
 7 Q. And the truth shall set you free, basically?  
 8 MR. GUERRERO: Objection form.  
 9 THE COURT: Sustained.  
 10 BY MR. BALAREZO:  
 11 Q. Well, in your mind, you're hoping that the truth will set  
 12 you free, right?  
 13 MR. GUERRERO: Same objection.  
 14 THE COURT: I'll allow that.  
 15 THE WITNESS: Yes.  
 16 BY MR. BALAREZO:  
 17 Q. And this is the truth that you're telling this jury here  
 18 today?  
 19 A. Yes.  
 20 Q. And the truth, of course, is the truth, right?  
 21 A. Yes.  
 22 Q. It doesn't change because it's the truth?  
 23 A. That's correct.  
 24 Q. Is that correct? Now, you were asked yesterday by the  
 25 prosecutor, how long did you know Don, D-O-N? Do you remember

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- 1 A. Anyone else.  
 2 Q. -- or --  
 3 A. Nobody else.  
 4 Q. -- or with Vernon, right?  
 5 A. Right.  
 6 Q. So, you basically had your own separate dealings with  
 7 each one of those three guys that we talked about, right?  
 8 A. Yes.  
 9 Q. And during your 19-year drug career, you probably had  
 10 more suppliers than just those three guys, correct?  
 11 A. Correct.  
 12 Q. About how many more did you have?  
 13 A. Don't recall.  
 14 Q. Too many to remember or --  
 15 A. Yeah.  
 16 Q. All right. And your dealings with all these separate  
 17 suppliers, they were all kept separate, correct?  
 18 A. Yes.  
 19 Q. You were just buying from them?  
 20 A. Yes.  
 21 Q. Now, your plea agreement, Government's 1106, you pled  
 22 guilty in paragraph 1 to conspiracy to distribute and possess  
 23 with intent to distribute cocaine, cocaine base, and marijuana.  
 24 A. That's correct.  
 25 Q. That's the charge that you're facing, that mandatory ten

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- 1 years under the statute?  
 2 A. Correct.  
 3 Q. And under the guidelines, the amount that we mentioned?  
 4 A. Correct.  
 5 Q. Well, which conspiracy did you plead guilty to? The one  
 6 with Joe, the one with Vernon, the one with Courtney, the one  
 7 with your many other suppliers you don't remember? What did you  
 8 plead guilty to?  
 9 A. Conspiracy.  
 10 Q. With whom?  
 11 A. Whoever was involved. Whoever I had to identify.  
 12 Q. Whoever they wanted you to identify, right?  
 13 MR. GUERRERO: Objection, form.  
 14 THE COURT: Sustained.  
 15 BY MR. BALAREZO:  
 16 Q. Well, you know Dom is sitting here on trial for  
 17 conspiracy, right?  
 18 A. Yes.  
 19 Q. And you know the other gentlemen are sitting here on  
 20 trial also?  
 21 A. That's correct.  
 22 Q. And you know your testimony -- and I'll talk about Dom,  
 23 because he's my client -- your testimony against him helps the  
 24 government, right?  
 25 MR. GUERRERO: Objection, form.

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- 1 THE COURT: Sustained.  
 2 BY MR. BALAREZO:  
 3 Q. Well, do you think that your testifying here that you  
 4 sold drugs to Don helps or hurts the government?  
 5 MR. GUERRERO: Objection, form.  
 6 THE COURT: Sustained.  
 7 MR. BALAREZO: Can I approach, Your Honor? I don't  
 8 understand.  
 9 (Following sidebar discussion had on the record:)  
 10 MR. GUERRERO: Your Honor, my objection is that Mr.  
 11 Balarezo is going to a topic that other defense counsel will also  
 12 go into, which is these witnesses under these plea agreements  
 13 don't have to help the government do anything. All they have to  
 14 do is cooperate and tell the truth, and whatever happens with the  
 15 case happens with the case.  
 16 But for the witness to be posed a question that he has to  
 17 help the government, that language is just -- it's not good form,  
 18 so we object to that.  
 19 MR. BALAREZO: That's not what I'm asking. I'm asking, if  
 20 in his mind, whether his testimony against my client, that he  
 21 dealt drugs to my client, does he think it helps or hurts the  
 22 client?  
 23 THE COURT: Neither of you actually asked the question the  
 24 way you asked it. That question I'll allow.  
 25 MR. BALAREZO: Okay. I don't remember.

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- 1 THE COURT: Is there something else?  
 2 MR. GUERRERO: No, sir.  
 3 (Sidebar discussion concluded.)  
 4 BY MR. BALAREZO:  
 5 Q. Sir, as you're sitting here -- first of all, you're  
 6 testifying as a result of this deal you got from the government,  
 7 right?  
 8 A. Yes.  
 9 Q. And testifying, as you already said, is part of your  
 10 cooperation?  
 11 A. Correct.  
 12 Q. Right. As you sit here today testifying, and again in  
 13 particular only to Dom, you've testified that you dealt drugs to  
 14 him, right?  
 15 A. Yes.  
 16 Q. In your mind, does that testimony, does it help or hurt  
 17 the government?  
 18 A. I'm testifying truthfully to help myself.  
 19 Q. Sir, you said here already that you understood the  
 20 English language and you understood me.  
 21 My question is: Do you think it helps or hurts the  
 22 government?  
 23 MR. GUERRERO: Asked and answered.  
 24 THE COURT: Sustained as to argumentative. You may  
 25 rephrase.

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1 BY MR. BALAREZO:

2 Q. Your testimony that you've given here, where you  
 3 testified that you sold drugs to Don, right?

4 A. Yes.

5 Q. Either beginning in '96 or '97 or whenever, in your mind,  
 6 do you think it helps or hurts the government? I'm not asking  
 7 you about you. I'm not asking the truth. I'm asking: Do you  
 8 think it helps their prosecution of my client?

9 MR. GUERRERO: Objection, form.

10 THE COURT: As compound?

11 MR. GUERRERO: And compound, yes.

12 THE COURT: I'll let you rephrase.

13 MR. BALAREZO: Let me think over that one for one second.

14 I'll give it one more shot.

15 BY MR. BALAREZO:

16 Q. All right. Do you think your testimony here today, that  
 17 my client -- that you sold drugs to Mr. -- to Dom, do you think  
 18 it helps the government's case?

19 A. Do I think it helps? Yes.

20 Q. And that's because you're providing evidence against him,  
 21 right?

22 A. Yes.

23 Q. And the evidence you're providing against him, are your  
 24 words?

25 A. Yes.

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1 Q. And according to you, your words here is -- or are the  
 2 truth?

3 A. That's correct.

4 Q. And under your plea agreement, do you know who determines  
 5 whether or not you're telling the truth?

6 A. Yes.

7 Q. Who, in your mind, under your plea agreement --

8 A. Under my plea agreement?

9 Q. Yes.

10 A. I guess the jury, the Judge.

11 Q. Let me --

12 MR. BALAREZO: Can I approach, Your Honor?

13 THE COURT: Yes.

14 BY MR. BALAREZO:

15 Q. I'm showing you Exhibit 1106. And I'll point -- well,  
 16 let me ask you another question first and then I'll point you to  
 17 a specific point.

18 What you're trying to do here today is get that 5K Letter  
 19 that you talked about, right?

20 A. That's correct.

21 Q. And you know that the 5K Letter or motion is the only way  
 22 that the Judge will be able to sentence you below that ten-year  
 23 mandatory minimum?

24 A. That's correct.

25 Q. You agree with that?

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1 A. Yes.

2 Q. So, the government has to file that motion or that letter  
 3 with the Judge, right?

4 A. Yes.

5 Q. And you said that the Judge can take it or leave it after  
 6 that, right?

7 A. Yes.

8 Q. But you're hoping that the Judge will go below the ten  
 9 years?

10 A. Yes.

11 Q. Now, the way you get the 5K Letter is if the government  
 12 determines that you've provided substantial assistance to them,  
 13 right?

14 A. Yes.

15 Q. And substantial assistance means a whole heck of a lot of  
 16 help to their case, right?

17 A. Correct.

18 MR. GUERRERO: Objection, form.

19 THE COURT: Overruled.

20 BY MR. BALAREZO:

21 Q. What's your answer?

22 A. That's correct.

23 Q. And you already indicated here today that your testimony  
 24 here today helps the government's case, right?

25 A. Yes.

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1 Q. Now, let me point your attention to page 4, paragraph 6  
 2 of your plea agreement, which states "Your client understands  
 3 that the determination of whether your client has provided  
 4 substantial assistance pursuant to either Section 5K1.1 of the  
 5 sentencing guidelines or 18 U.S.C. Section 3553 E, is within the  
 6 sole discretion of the United States Attorney's Office for the  
 7 District of Columbia and is not reviewable by the Court."

8 Do you see that?

9 A. Yes.

10 Q. You understand what that means, right?

11 A. Yes.

12 Q. Basically, they're the ones that are going to say, did  
 13 you or did you not provide substantial assistance, right?

14 A. Correct.

15 Q. The jury has nothing to do with that, correct?

16 A. That's correct.

17 Q. So if they think you're telling the truth, that could be  
 18 substantial assistance, as you testify here today, right?

19 A. Yes.

20 Q. Because it's their discretion?

21 A. That's correct.

22 Q. Not the Judge's. Again, not reviewable by the Court, you  
 23 understand that?

24 A. I understand that.

25 Q. So, again, they're the ones that you have to satisfy in

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :  
 Plaintiff, : Docket No. CR 05-100  
 v. :  
 ANTWAUN BALL, DAVID WILSON, : Washington, DC  
 GREGORY BELL, DESMOND : April 25, 2007  
 THURSTON, JOSEPH JONES, and : 9:25 a.m.  
 DOMINIC SAMUELS,  
 Defendants. :  
 :  
 :

VOLUME 40 - MORNING SESSION  
 TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
 BEFORE THE HONORABLE RICHARD W. ROBERTS  
 UNITED STATES DISTRICT COURT JUDGE, and a JURY

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MORNING SESSION, APRIL 25, 2007

1 2 (9:17 a.m.)

3 THE COURT: All right, Ms. Wicks. Are you ready for the  
 4 jury?

5 MS. WICKS: Yes. Thank you, Your Honor.

6 (Jury in at 9:22 a.m.)

7 THE COURT: Good morning, ladies and gentlemen.

8 THE JURY PANEL: Good morning.

9 THE COURT: Welcome back. We're ready to resume.

10 Ms. Wicks.

11 MS. WICKS: Thank you, Your Honor.

CONTINUED CROSS-EXAMINATION OF CEDRIC CONNERBY MS. WICKS:

14 Q. Good morning, Mr. Conner.

15 A. Good morning.

16 Q. When you -- after meeting with Mr. Beatrice, then you met  
 17 with Mr. Guerrero?

18 A. Yes.

19 Q. About testifying in this case?

20 A. Yes.

21 Q. And I believe your testimony was that you met with him  
 22 two times?

23 A. Yes.

24 Q. Approximately how much time did you spend with Mr.  
 25 Guerrero with him asking -- essentially preparing for testimony

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- 1 know, they come back in about a half hour, 30 to 45 minutes with  
 2 your drugs.  
 3 Q. Wait a second.  
 4 A. Give your money to one person.  
 5 Q. Huh?  
 6 A. Give your money to one person.  
 7 Q. I see. So you're standing on a corner or a street  
 8 somewhere in Spanish Harlem --  
 9 A. Once you go up and meet with someone --  
 10 Q. No, no, no. Please answer the question I ask you.  
 11 You're telling us you went up there, not knowing anyone?  
 12 A. That's correct.  
 13 Q. A guy you don't know comes up to you; you give a guy you  
 14 don't know \$10,000 and hope that 45 minutes later, he comes back  
 15 with a half a kilo?  
 16 A. Yes. That's the way it happened.  
 17 Q. And you weren't worried about him ripping you off, right?  
 18 A. Nope.  
 19 Q. And of course you can't tell us this guy's name?  
 20 A. Nope.  
 21 Q. You can't tell us where he lives?  
 22 A. Nope.  
 23 Q. You have -- if he walked away with your \$10,000, there's  
 24 absolutely nothing you could do about it, right?  
 25 A. That's correct.

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- 1 Q. And he, of course, didn't give you a phone number?  
 2 A. Nope.  
 3 Q. He didn't give you a name?  
 4 A. Nope.  
 5 Q. So if you go --  
 6 A. They all look alike.  
 7 Q. -- if he goes off with your \$10,000 and he doesn't come  
 8 back, you're kind of wandering around, trying to talk English to  
 9 people who speak Spanish, right?  
 10 A. It was a gamble, I agree.  
 11 Q. You're a big gambler, huh?  
 12 A. Yes, I am.  
 13 MR. ZUCKER: Moment to consult.  
 14 (Discussion had off the record.)  
 15 BY MR. ZUCKER:  
 16 Q. I'm not sure. I might have missed it. Did you just say  
 17 they all look alike?  
 18 A. They do.  
 19 MR. BALAREZO: Objection, Your Honor.  
 20 MR. ZUCKER: I don't know if it was Mr. Balarezo or  
 21 Mr. Guerrero that made the objection.  
 22 BY MR. ZUCKER:  
 23 Q. So, you don't even know who to go look for for your  
 24 \$10,000?  
 25 A. I told you that already, yes.

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- 1 Q. Where in Spanish Harlem were you?  
 2 A. Spanish Harlem. I don't know.  
 3 Q. What street were you on?  
 4 A. 100-and-something. I don't recall.  
 5 Q. 100 and what?  
 6 A. I don't recall. It was 100-and-something, though.  
 7 Q. Was it 110?  
 8 A. Higher than that. It was in the mid 100s.  
 9 Q. The mid 100s. Like 150 is the mid 100s?  
 10 A. Yeah, I believe.  
 11 Q. What's the cross street?  
 12 A. I don't recall.  
 13 Q. How'd you get there?  
 14 A. Taxicab.  
 15 Q. And where did you tell the taxicab to take you to?  
 16 A. Spanish Harlem.  
 17 Q. You got in a cab and said "Spanish Harlem"? How big is  
 18 Spanish Harlem?  
 19 A. I don't know.  
 20 Q. Was it on the East Side or West Side?  
 21 A. Don't know.  
 22 Q. You just got in a cab and said, "Take me to Spanish  
 23 Harlem"?  
 24 A. Yes, I did.  
 25 MR. GUERRERO: Objection, asked and answered.

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- 1 THE COURT: Sustained. Go ahead.  
 2 BY MR. ZUCKER:  
 3 Q. Did you tell the cab driver to take you to Spanish Harlem  
 4 to where they sell drugs?  
 5 A. No, I did not.  
 6 Q. Okay. But it was in the mid 150s, right?  
 7 A. I believe so.  
 8 Q. Spanish Harlem goes from about 96, 98 up to 125th.  
 9 A. Okay. Then you're asking me and I said I thought it was  
 10 150s or something. I don't know.  
 11 Q. You weren't even in Spanish Harlem, were you, sir?  
 12 A. Yes, I was.  
 13 Q. You don't even know where Spanish Harlem is?  
 14 A. You're asking me ten, 15 -- almost ten, 15 years ago  
 15 where Spanish Harlem is. I haven't been there since.  
 16 Q. I thought you went back there?  
 17 A. In the early 90s, sir.  
 18 Q. Sir, this story about going up to the mid 150s and you  
 19 can't tell us West Side, East Side, Lexington, Broadway,  
 20 nothing, right?  
 21 A. Can't tell you.  
 22 Q. And giving a complete stranger \$10,000 and him coming  
 23 back with half a kilo of cocaine 45 minutes later -- this is as  
 24 truthful as the rest of your testimony, isn't it?  
 25 A. That is the truth, sir.

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- 1 Q. I see. You're not making up this story because you don't  
 2 want to give up your real suppliers and protect them, do you?  
 3 A. I gave up my real suppliers.  
 4 Q. You said they were Dominicans?  
 5 A. They were Dominicans, yes.  
 6 Q. How did you know they were Dominicans?  
 7 A. Darker skin.  
 8 Q. Dominicans are darker than Puerto Ricans?  
 9 A. Some of them are.  
 10 Q. Are they darker than Cubans?  
 11 A. I don't know. I don't know many Cubans.  
 12 Q. Are they darker than people from Peru?  
 13 A. I don't know, sir.  
 14 Q. Well, how do you know they were Dominicans? Because they  
 15 were darker?  
 16 A. Well --  
 17 Q. That's the only way?  
 18 A. That's based on conversations I've had with people who  
 19 told me where to go when I went to New York.  
 20 Q. Well, I thought they told you where to go, all they said  
 21 was Spanish Harlem, right?  
 22 A. A guy named Fats told me, "Go to Spanish Harlem." He  
 23 said, "All you have to do is go there. Everything will take  
 24 care of itself."  
 25 Q. The Dominicans are primarily on the Upper West Side in

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- 1 the 140s, aren't they, sir?  
 2 MR. GUERRERO: Objection, assumes facts not in evidence.  
 3 THE COURT: Overruled.  
 4 BY MR. ZUCKER:  
 5 Q. Where's the Little Dominica? Where's that in Manhattan?  
 6 A. I don't know New York that well, sir.  
 7 Q. Well, Spanish Harlem is predominantly Puerto Rican, isn't  
 8 it?  
 9 MR. GUERRERO: Objection, not in evidence.  
 10 THE COURT: Overruled.  
 11 THE WITNESS: I don't know.  
 12 BY MR. ZUCKER:  
 13 Q. You don't know who you were dealing with, do you, sir?  
 14 A. I thought they were Dominicans, sir.  
 15 MR. ZUCKER: All right. I'm moving into a new area. I  
 16 could keep going. If you want to break at 11 or whatever, if you  
 17 want to break.  
 18 THE COURT: The break time will be 10:50 unless you want  
 19 to break earlier.  
 20 MR. ZUCKER: I'll keep going.  
 21 BY MR. ZUCKER:  
 22 Q. Now, you told us earlier that you said you started  
 23 selling to Dazz in 1996, correct?  
 24 A. Somewhere in that neighborhood, yeah.  
 25 Q. Well, which neighborhood?

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- 1 A. When he was hanging with Jermaine. He's familiar with  
 2 that.  
 3 Q. Well, when the prosecutor asked you, you said it was in  
 4 '96, okay?  
 5 A. It could have been '96 or later.  
 6 Q. And it continued for a while, right?  
 7 A. Yes. A few times, not many.  
 8 Q. Not many?  
 9 A. I think I said that.  
 10 Q. You weren't selling to him regularly, huh?  
 11 A. That's correct.  
 12 Q. Okay. When is the first time you sold to him?  
 13 A. It was one time he was with Jermaine in the back of his  
 14 Mom's building.  
 15 Q. How much did you sell him?  
 16 A. Somewhere between a quarter and a half.  
 17 Q. You can't recall?  
 18 A. Nope, not exactly.  
 19 Q. Well, didn't you recall last time it was seven grams?  
 20 A. I said a quarter. That's a quarter.  
 21 Q. Now you just said a quarter to a half, you can't  
 22 remember, right?  
 23 A. I said a quarter. A quarter is seven grams.  
 24 Q. Did you just say "A quarter or a half, I can't remember,"  
 25 30 seconds ago?

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- 1 MR. GUERRERO: Objection, misstates the evidence.  
 2 THE COURT: I'll allow it.  
 3 THE WITNESS: I said a quarter or somewhere between a  
 4 quarter and a half. A quarter is seven grams.  
 5 BY MR. ZUCKER:  
 6 Q. I'm just trying to be sure, sir. You said to me, "The  
 7 first sale was somewhere between a quarter and a half, I cannot  
 8 remember"; isn't that correct, not one minute ago in this chair?  
 9 A. That's correct.  
 10 MR. GUERRERO: Asked and answered.  
 11 THE COURT: Sustained.  
 12 BY MR. ZUCKER:  
 13 Q. When the prosecutor asked you two days ago, do you  
 14 remember it was seven grams?  
 15 A. I said somewhere between a quarter and a half.  
 16 Q. What month was it?  
 17 A. Don't know.  
 18 Q. What season?  
 19 A. Don't recall.  
 20 Q. Can't tell us if it was summer, winter, spring, fall?  
 21 A. Nope. Can't remember.  
 22 Q. Nighttime? Daytime?  
 23 A. Can't remember, sir.  
 24 Q. What was he wearing?  
 25 A. Don't remember.

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- 1 Q. How did he pay you?  
 2 A. Cash money.  
 3 Q. How much? What quantities?  
 4 A. Like I said, I don't recall what he bought that time.  
 5 Q. What was the second time he bought from you?  
 6 A. It was like -- the question you're asking me is like  
 7 asking me how many times I've been to the grocery store and how  
 8 much money have I spent. I mean, I can't recall that.  
 9 Q. Well, wait. You just told us you only sold to Dazz a few  
 10 times, right?  
 11 A. And I know I went to the grocery store before as well.  
 12 Q. You've been to the grocery store more times, right?  
 13 A. I've been to the grocery store more times than I've  
 14 served Dazz, yes.  
 15 Q. And yesterday when the prosecutor was asking you -- or  
 16 two days ago, you were able to recall each sale, weren't you?  
 17 A. I don't think I recalled each sale. I said a few, a few  
 18 times. I said not many, I believe.  
 19 Q. You can't recall the quantity the first time. Can you  
 20 recall the quantity the second time?  
 21 A. Anywhere between a quarter and a half.  
 22 Q. How about a third time?  
 23 A. I don't recall.  
 24 Q. Was there a third time?  
 25 A. Could have been, could have not been.

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- 1 Q. It might have been --  
 2 A. It could have been maybe one to five times, at a max.  
 3 Q. And you can't tell us the quantities on any given  
 4 occasion except between a quarter and an ounce?  
 5 A. That's correct.  
 6 Q. Are you sure?  
 7 A. That's correct.  
 8 Q. Never more than a half?  
 9 MR. GUERRERO: Objection, asked and answered.  
 10 THE COURT: Sustained.  
 11 BY MR. ZUCKER:  
 12 Q. Didn't you testify that he bought up to 28 grams from  
 13 you?  
 14 A. I don't recall. It could have been.  
 15 Q. And you said you received shipments of cocaine at the DC  
 16 Public Schools when you were employed there; is that correct?  
 17 A. Yes.  
 18 Q. Do you remember the quantity?  
 19 A. It was a kilo of cocaine.  
 20 Q. How many times?  
 21 A. One time.  
 22 Q. And you were -- only one time at DC Public Schools?  
 23 A. Yes.  
 24 Q. And you're an accounts payable specialist, right?  
 25 A. Yes.

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Official Court Reporter*

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- 1 Q. Use a DC account to pay for the shipment?  
 2 A. No.  
 3 Q. Now, you also talked about making fake high school  
 4 diplomas; is that correct?  
 5 A. Yes, I have.  
 6 Q. And making fake check stubs, right?  
 7 MR. GUERRERO: Objection, asked and answered, the topic.  
 8 THE COURT: Overruled.  
 9 THE WITNESS: Yes.  
 10 BY MR. ZUCKER:  
 11 Q. And these were favors you did for friends, not for  
 12 financial reward?  
 13 A. That's correct.  
 14 Q. Now, the friends took the pay stubs to provide to courts  
 15 as proof of their employment, correct?  
 16 MR. GUERRERO: Objection, assumes what someone else was  
 17 doing with them.  
 18 THE COURT: Sustained.  
 19 BY MR. ZUCKER:  
 20 Q. What did you know them to be doing with them?  
 21 MR. GUERRERO: Same objection; calls for hearsay.  
 22 THE COURT: Sustained.  
 23 BY MR. ZUCKER:  
 24 Q. What was your understanding of what those fake check  
 25 stubs were to be used for?

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Official Court Reporter*

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- 1 MR. GUERRERO: Same objection.  
 2 THE COURT: Sustained.  
 3 BY MR. ZUCKER:  
 4 Q. Did you have an understanding of what they were to be  
 5 used for?  
 6 A. Apartments, things of that nature.  
 7 Q. And the high school diplomas?  
 8 A. Gain employment.  
 9 Q. How many of them did you make?  
 10 A. One, for Sheila Teasley.  
 11 Q. I'm sorry?  
 12 A. One, for Sheila Teasley.  
 13 Q. Just one?  
 14 A. For Sheila Teasley. That's the only one I needed to make  
 15 one for.  
 16 Q. No one else?  
 17 A. Not that I recall. It could have been maybe two or  
 18 three, but I don't recall who.  
 19 Q. Were these diplomas you took from the school system that  
 20 you filled out?  
 21 A. From something that I corrected. Not from DC Public  
 22 Schools. I didn't have access to diplomas.  
 23 Q. Where'd you get them from?  
 24 A. Copied diplomas from my only personal youth -- from my  
 25 high school diploma, I mean.

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Official Court Reporter*

# EXHIBIT C

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :

Plaintiff, : Docket No. CR 05-100

v. :

ANTWUAN BALL, DAVID WILSON, : Washington, DC  
GREGORY BELL, DESMOND :  
THURSTON, JOSEPH JONES, and : March 7, 2007  
DOMINIC SAMUEL, : 9:49 a.m.

Defendants. :

VOLUME 13 - MORNING SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS  
UNITED STATES DISTRICT COURT JUDGE, and a JURY

APPEARANCES:

For the United States:

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Ann H. Petalas, Assistant United  
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For Defendant  
Antwuan Ball:

CARNEY & CARNEY  
John James Carney, Esq.  
South Building  
601 Pennsylvania Avenue, N.W.  
Washington, DC 20004  
202.434.8234

1 I believe you testified earlier, yesterday for sure, and  
2 maybe as well today. Let me not guess?

3 You testified at some point you know somebody by the name  
4 of Dazz; is that correct?

5 A. Yes.

6 Q. Did you ever buy drugs from Dazz?

7 A. Yes.

8 Q. Can you estimate for us, approximately, as you sit here  
9 today, how many times you bought drugs from Dazz?

10 A. Like I said, a number of times. It's hard to put a  
11 number on it, an exact number.

12 Q. I know it's hard, but I'm going to ask: Can you put a  
13 rough number on it, even a range?

14 A. Eighty.

15 Q. Okay. When you would buy drugs from Dazz, would -- what  
16 would the amounts be? Would there be a range or would it be the  
17 same amount every time?

18 A. No, there would be a range.

19 Q. What would the range be?

20 A. Anywhere from dime bags to 20s.

21 Q. What's the most that you'd say you bought from Dazz at  
22 any one time, if you can remember?

23 A. An eight-ball.

24 Q. And when you would buy an eight-ball, would you actually  
25 buy the chunk or would it be in dime form?

1 A. It depends. Sometimes it would be in dime form,  
2 sometimes it was in chunk.

3 MR. LEON: May I approach, Your Honor?

4 THE COURT: Yes.

5 BY MR. LEON:

6 Q. Ms. Parson, I'm handing you what's in evidence as  
7 Government's 314. And I'm going to take out the contents of  
8 314. Tell me if you recognize that.

9 A. Yes.

10 Q. What's that?

11 A. It's a disk of purchases -- it's a disk made of a  
12 purchases I made.

13 Q. That you made?

14 A. Yes.

15 Q. How do you know that?

16 A. I listened to it. It has my signature and date on it.

17 Q. Okay. Now, was this -- I think you said earlier that you  
18 agreed with the Agent Kyle and another agent to wear wires. Was  
19 this one of the times you wore a wire?

20 A. Yes.

21 Q. I'm going to ask if Mr. Mazzitelli could play -- tee up  
22 314.1. And I'll ask you if you could -- make sure the headset  
23 is on -- and make sure while you're listening, face the  
24 receiver. Before we tee it up, let me ask you these questions.

25 When you buy from Dazz, how would you start that

1 transaction?

2 A. I would go outside and look for him or stand in the door  
3 and wait and see who would come by.

4 Q. Do you know if you would ever call him? Do you remember  
5 if you would ever call him?

6 A. No.

7 Q. Okay.

8 (Audiotape played.)

9 BY MR. LEON:

10 Q. Do you remember -- did you have a particular meet  
11 location that you had with Kyle or was it different places at  
12 different times?

13 A. Different places at different times.

14 Q. Do you remember the particular meet location on this day?

15 A. No.

16 Q. Okay.

17 (Audiotape played.)

18 BY MR. LEON:

19 Q. What's that rustling we could hear?

20 A. The sound of my coat.

21 (Audiotape played.)

22 BY MR. LEON:

23 Q. Let me just stop there. What did we just hear?

24 A. Me making a drug transaction with Dazz.

25 Q. Keep your voice up, please, if you could.

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :  
 Plaintiff, : Docket No. CR 05-100  
 v. :  
 :  
 ANTWUAN BALL, DAVID WILSON, : Washington, DC  
 GREGORY BELL, DESMOND :  
 THURSTON, JOSEPH JONES, and : March 8, 2007  
 DOMINIC SAMUELS, : 9:23 a.m.  
 :  
 Defendants. :  
 :  
 :

VOLUME 14 - MORNING SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS  
UNITED STATES DISTRICT COURT JUDGE, and a JURY

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Proceedings reported by machine shorthand, transcript produced  
 by computer-aided transcription.

*Scott L. Wallace, RDR, CRR  
Official Court Reporter*

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1           THURSDAY MORNING SESSION, MARCH 8, 2007

2           THE DEPUTY CLERK: Criminal Case Number 05-100, *The United*  
 3           *States versus Antwuan Ball, David Wilson, Gregory Bell, David*  
 4           *Wilson, Joseph Jones and Dominic Samuels.*

5           For the government, Mr. Leon, Ms. Petalas and  
 6           Mr. Guerrero. For defendants, Mr. Carney, Mr. Tabackman,  
 7           Ms. Wicks, Mr. Beane, Mr. Zucker, Mr. Martin, Mr. Balarezo and  
 8           Mr. Purpura.

9           THE COURT: All right. Good morning, counsel. We just  
 10          got a call that Juror 16 has called in to say he's going to be  
 11          delayed by one hour. So there's really nothing we can do to  
 12          proceed at this point and I suggest we just recess for an hour.  
 13          That will give you, perhaps, some time to do some things.

14          Mr. Martin, did you have something?

15          MR. MARTIN: Good morning, sir.

16          THE COURT: Good morning.

17          MR. MARTIN: I was just going to ask if the Court would  
 18          give me permission to go out of turn. You have a list of  
 19          examinations for Ms. Parson and I would like to go ahead of --

20          THE COURT: Yes. Have you all agreed to it? I'm sorry to  
 21          interrupt you.

22          MR. MARTIN: Yes.

23          THE COURT: Where would you like to go?

24          MR. MARTIN: Before Mr. Zucker.

25          THE COURT: So you would be after Mr. Balarezo?

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Official Court Reporter*

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1 people who you bought drugs from during the relevant time of the  
 2 inquiry, were you?

3 **A.** No.

4 **Q.** Okay. And you've already gone over some of the names  
 5 with some of the other lawyers, and they're all listed in  
 6 paragraph 4, aren't they? Well, actually, two in paragraph 5,  
 7 and the rest in paragraph 4, right?

8 **A.** Yes.

9 **Q.** And it's approximately 19, 20 people, correct?

10 **A.** Yes.

11 **Q.** And those are the people that you had bought drugs from  
 12 prior to pleading guilty, as far as -- during that ten-year  
 13 period you lived in -- ten-year period you were addicted in  
 14 Congress Park, correct?

15 **A.** Yes.

16 **Q.** Desmond Thurston's name or his nickname Dazz doesn't  
 17 appear anywhere on that list, does it?

18 **A.** No, it doesn't.

19 **Q.** And you weren't trying to protect Dazz, were you?

20 **A.** No.

21 **Q.** You just didn't recall ever buying drugs from him; is  
 22 that a fair statement?

23 **A.** No.

24 **Q.** Well, you prepared it when it was fresher in your mind  
 25 and you were as thorough, complete and accurate as could be,

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1 correct?

2 **A.** Yes.

3 **Q.** And at that time, you didn't recall buying drugs from  
 4 Desmond Thurston or Dazz and that's why he was left out, right?  
 5 MR. LEON: Objection.

6 THE COURT: Sustained as to form.

7 BY MR. ZUCKER:

8 **Q.** All right. You agree that his name isn't included,  
 9 right?

10 **A.** Yes.

11 **Q.** And you agree that you hadn't told them, "them" being the  
 12 prosecutors or the FBI at that point, that you had ever bought  
 13 drugs from Mr. Thurston; isn't that correct?

14 **A.** Yes.

15 **Q.** And so some years later, you remembered it?

16 **A.** Yes.

17 **Q.** Okay. Now, you've discussed at length how drugs affected  
 18 you, right?

19 **A.** Yes.

20 **Q.** And they affected you in -- well, when you get high, it  
 21 affects perception, right?

22 **A.** Yes.

23 **Q.** It affects one's ability to recall events, correct?

24 **A.** Yes.

25 **Q.** And during that period of time, you were staying up for

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1 days on end and doing drugs and then crashing, right?

2 **A.** Yes.

3 **Q.** And it would be fair to characterize your recollection  
 4 during that period as fuzzy, correct?

5 **A.** Yes.

6 **Q.** Now, yesterday you were asked a couple of questions about  
 7 how many times you estimated you bought drugs from several  
 8 people. Do you recall that?

9 **A.** Yes.

10 **Q.** And they were only people in this room, right?

11 **A.** Yes.

12 **Q.** Do you recall what you said yesterday?

13 MR. LEON: Objection, form.

14 THE COURT: Sustained. Why don't you --

15 BY MR. ZUCKER:

16 **Q.** You testified yesterday, with regards to those people you  
 17 bought drugs from in this room?

18 **A.** I said a lot of things. I don't remember the same  
 19 question.

20 **Q.** Specifically you were asked about the number -- well,  
 21 Mr. Leon asked you to estimate how many times you bought drugs  
 22 and he named a few people who were in this room, did he not?

23 **A.** Yes.

24 **Q.** Do you recall which ones he named?

25 **A.** No.

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1 **Q.** Do you recall whether or not he asked of you about  
 2 Mr. Thurston?

3 **A.** No.

4 **Q.** You can't recall what you said here yesterday?

5 **A.** No.

6 **Q.** Sitting here today, can you recall approximately how many  
 7 times you bought drugs from Mr. Thurston, in your life?

8 **A.** No -- about 10, 20, not many.

9 **Q.** Ten or 20?

10 **A.** Um-hmm.

11 **Q.** Is that your best estimate, sitting here today?

12 **A.** Yes, it is.

13 **Q.** Do you recall yesterday estimating it was 80?

14 **A.** No.

15 **Q.** So you can't remember what you said -- and you're not  
 16 high today, right?

17 **A.** No, I'm not.

18 **Q.** You're a little bit nervous, probably, because you don't  
 19 like being on the stand, if I understand you right, right?

20 **A.** Repeat the question.

21 **Q.** Are you a little bit nervous because you don't like  
 22 being -- testifying in a courtroom?

23 **A.** I didn't understand the last part. Being nervous?

24 **Q.** Is there anything that's affecting your memory, sitting  
 25 here today?

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- 1 A. No.  
 2 Q. Is there anything that's making you uncomfortable,  
 3 sitting here today?  
 4 A. No.  
 5 Q. Okay. So, today at 12:00, your estimate is that you  
 6 bought drugs from Mr. Thurston 10 or 20 times, and you don't  
 7 recall saying yesterday, approximately -- I don't know, 3 or  
 8 4:00 in the afternoon, maybe 2:30, that your estimate was 80  
 9 times, wasn't it?  
 10 A. No.  
 11 Q. That would be inaccurate, right, the 80 times estimate?  
 12 A. Yes.  
 13 Q. Do you generally have trouble with your memory?  
 14 A. On occasion.  
 15 Q. Well, certainly you would agree that your memory  
 16 regarding events that occurred yesterday after you stopped using  
 17 drugs is probably better than your memory of events that  
 18 happened 15 years ago, 1992 to 2002 in Congress Park, right,  
 19 while you were using drugs?  
 20 A. Yes.  
 21 Q. Okay. So, something that happened yesterday should be  
 22 fresher in your mind than something that happened 10 years ago?  
 23 A. No.  
 24 Q. No?  
 25 A. No.

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Official Court Reporter*

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- 1 Q. Okay. Now, in those 10 or 20 times -- incidentally, what  
 2 quantities did you -- what quantities do you recall buying from  
 3 Mr. Thurston?  
 4 A. Anywhere from dimes to -- dimes.  
 5 Q. Just dimes?  
 6 A. Yes.  
 7 Q. Might have been a 20 on occasion or not even that big?  
 8 A. Well, they were dimes, but they added up to different  
 9 amounts.  
 10 Q. All right. Might have been multiple dimes, right?  
 11 A. Yes.  
 12 Q. But only dimes, and possibly multiple times, right?  
 13 A. Yes.  
 14 Q. You certainly never bought a large wholesale quantity  
 15 from Thurston, did you?  
 16 A. No.  
 17 Q. Have you ever -- the largest amount you ever bought in  
 18 your life was an eight-ball, right?  
 19 A. Uh.  
 20 Q. At once.  
 21 A. Yes.  
 22 Q. And you certainly never bought one of those from Mr. --  
 23 from Dazz, did you?  
 24 A. No.  
 25 Q. You're sure of that?

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Official Court Reporter*

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- 1 A. No.  
 2 Q. Do you recall yesterday saying that you bought anywhere  
 3 from a dime up to an eight-ball from Mr. -- from Dazz? I'll  
 4 call him Dazz so there's no confusion.  
 5 A. Yes.  
 6 Q. You recall saying that yesterday?  
 7 A. Yes.  
 8 Q. But having thought about it overnight, you realized it  
 9 was wrong?  
 10 A. No.  
 11 Q. Well, why did you just tell us that the largest amount  
 12 you ever bought from Mr. -- Dazz, a couple minutes ago, was a  
 13 dime?  
 14 A. Because they were dimes. It wasn't a solid piece. It  
 15 was dimes.  
 16 Q. Okay. But yesterday you said you bought eight-balls from  
 17 him, up to an eight-ball, right?  
 18 A. In dime form.  
 19 Q. That's not what you said yesterday, is it? You said an  
 20 eight-ball.  
 21 A. It still adds up to an eight-ball, even in dime form.  
 22 Q. Well, yesterday we asked you how big an eight-ball -- how  
 23 much did an eight-ball weigh and you didn't know, did you?  
 24 A. No, I didn't.  
 25 Q. How many dimes in an eight-ball?

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- 1 A. Twenty.  
 2 MR. ZUCKER: Court's indulgence.  
 3 BY MR. ZUCKER:  
 4 Q. About 20, you think?  
 5 MR. LEON: Twenty what?  
 6 BY MR. ZUCKER:  
 7 Q. Twenty dimes in an eight-ball?  
 8 A. Yes.  
 9 Q. That's what you just said, right?  
 10 A. Yes.  
 11 Q. Okay. Have you ever bought an eight-ball and cut it up  
 12 into dimes?  
 13 A. Yes.  
 14 Q. And you got about 20?  
 15 A. Twenty, 30.  
 16 Q. Okay. You're the same Gail Parson that testified --  
 17 well, you saw the transcript Mr. Balarezo showed you -- on  
 18 June 14th, 2006. May I approach, Judge?  
 19 THE COURT: Yes.  
 20 BY MR. ZUCKER:  
 21 Q. I'm using Balarezo 16.  
 22 THE COURT: What 16?  
 23 MR. ZUCKER: Balarezo 16.  
 24 THE COURT: There is no Balarezo 16.  
 25 MR. ZUCKER: Sorry. Okay. I plead guilty. Mr. Samuels,

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Official Court Reporter*

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1 different, and different than the quality you got from anybody  
 2 else, right?

3 **A.** Yes.

4 **Q.** So in your experience as a cocaine user for many years,  
 5 it was pretty clear that they were not coming from the same  
 6 source?

7 MR. LEON: Objection.

8 THE COURT: Sustained.

9 BY MR. ZUCKER:

10 **Q.** Either they were coming from different sources or they  
 11 were using different quantities of cut?

12 MR. LEON: Objection.

13 THE COURT: Sustained.

14 BY MR. ZUCKER:

15 **Q.** Well, what do you attribute the difference in quality of  
 16 cocaine to different users to be from, if you know?

17 **A.** I don't know.

18 **Q.** Did it seem to you -- well, you could taste differences  
 19 in, for instance, flavor?

20 **A.** Yes.

21 **Q.** You could taste different -- you could feel differences  
 22 in effect, correct?

23 **A.** Yes.

24 **Q.** And you could observe differences in quantity, right?

25 **A.** Yes.

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Official Court Reporter*

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1 **A.** Yes.

2 **Q.** Now, were you also treated for depression?

3 **A.** Yes.

4 **Q.** Does that affect your memory?

5 **A.** Yes.

6 **Q.** I assume it adversely affects it. It hampers it  
 7 somewhat?

8 **A.** I'm sorry, say it again.

9 **Q.** When you say it affects your memory, how does it affect  
 10 your memory?

11 **A.** Certain events and things it takes time for me to  
 12 remember. It takes time for me to remember.

13 **Q.** I see. It takes time to remember?

14 **A.** Certain things.

15 **Q.** Is that another way of saying you have difficulty  
 16 remembering things, some things?

17 **A.** Some things, yes.

18 **Q.** Were you taking any medications for the depression?

19 **A.** Yes, I am.

20 **Q.** Are you taking them now?

21 **A.** Yes.

22 **Q.** Uhm, do they affect your ability to recall events, if you  
 23 know?

24 **A.** I don't know.

25 **Q.** Now --

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1 **Q.** Incidentally, you talked about putting your number into  
 2 people's pagers and phones, but you never did that with Mr. --  
 3 Dazz, right?

4 **A.** No.

5 **Q.** Because you never even had his number, right?

6 **A.** Correct.

7 **Q.** You never went to his house, right?

8 **A.** No.

9 **Q.** You never knew where he lived even, right?

10 **A.** No.

11 **Q.** You and he weren't like that, right?  
 12 **A.** No.  
 13 **Q.** The only time you saw Dazz was if you went out -- if you  
 14 couldn't get anybody on the phone to come to your house, you  
 15 said you would go out and stand on the steps, right?

16 **A.** Yes.

17 **Q.** And Dazz was basically a street corner guy, right?

18 **A.** Yes.

19 **Q.** He wandered through the neighborhood; if he had drugs, he  
 20 sold them, but --

21 MR. LEON: Objection as to what Dazz did.

22 THE COURT: Sustained as to form.

23 BY MR. ZUCKER:

24 **Q.** But that's how you -- that's the only times you bought  
 25 from Dazz, right?

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Official Court Reporter*

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1 THE COURT: Mr. Zucker, forgive me for interrupting, but  
 2 we're close to the lunch break, so signal me when you think we  
 3 can do that.

4 MR. ZUCKER: Any time that's convenient for the Court. I  
 5 can stop right now or keep on going, whatever is your preference.

6 THE COURT: All right, ladies and gentlemen, we're ready  
 7 to take our lunch break. Please remember my admonition not to  
 8 talk about the case amongst yourselves or with anyone else.  
 9 Leave your notes in the jury room until you come back. I would  
 10 ask that you come back promptly at 1:35. Enjoy your lunch.

11 (Jury out at 12:22 p.m.)

12 THE COURT: All right, counsel, we'll see you back at  
 13 1:35.  
 14 (Thereupon, a luncheon recess was had beginning at  
 15 12:23 p.m.)

16

#### CERTIFICATE

18 I, Scott L. Wallace, RDR-CRR, certify that the  
 19 foregoing is a correct transcript from the record of proceedings  
 in the above-entitled matter.

20

-----  
 21 **Scott L. Wallace, RDR, CRR**  
 22 **Official Court Reporter**

23

24

25

*Scott L. Wallace, RDR, CRR  
Official Court Reporter*



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- 1 A. Yes, I did.  
 2 Q. For roughly what periods of your life?  
 3 A. From roughly 1985 to about 2001.  
 4 Q. So roughly 15 to 16 years or so?  
 5 A. Yes.  
 6 Q. And did you ever live within D.C. itself or just around  
 7 D.C.?  
 8 A. Just around D.C.  
 9 Q. And without telling us where you live today, do you live  
 10 in the greater D.C. area today?  
 11 A. No.  
 12 Q. When did you move out of the greater D.C. area?  
 13 A. The latter part of '01.  
 14 Q. Why did you move out of D.C., the greater D.C. area  
 15 around that time?  
 16 A. Change of environment.  
 17 MR. ZUCKER: I'm sorry. I couldn't hear the last  
 18 statement.  
 19 THE WITNESS: Change of environment.  
 20 BY MR. LEON:  
 21 Q. And could you be a little more specific? What  
 22 specifically?  
 23 A. Well, what I had was I had a problem of addiction and I  
 24 moved down to rehabilitate myself.  
 25 Q. And when you say addiction, what kind of addiction?

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- 1 A. Drug addiction.  
 2 Q. And when you say drug addiction, what kind of drugs?  
 3 A. Mostly cocaine.  
 4 Q. You said mostly cocaine. Were there other drugs you were  
 5 addicted to?  
 6 A. I wasn't addicted to any other thing but cocaine.  
 7 Q. What other drugs did you use in addition to coke?  
 8 A. I used marijuana.  
 9 Q. Okay. Now, let's talk about cocaine. When you say  
 10 cocaine, are you familiar with cocaine being in a powder and a  
 11 hard crack form?  
 12 A. Crack form.  
 13 Q. That was the kind you used?  
 14 A. That was it.  
 15 Q. When did you start using crack cocaine?  
 16 A. I started back in the early '80s, around about '86, '87.  
 17 Q. And was this before or after you moved to D.C. -- or the  
 18 D.C. area, I should say?  
 19 A. After.  
 20 Q. Okay. And how did you get introduced to it?  
 21 A. I got introduced to it through a young lady that I knew  
 22 when I was in California, training. And then when I came back  
 23 here, I got introduced to a young lady working off the rib  
 24 stand, actually.  
 25 Q. Okay. Well, you touched on my next couple of questions.

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- 1 You said -- you made a reference to training. Back in 1985,  
 2 1986, what type of employment did you have?  
 3 A. I worked for the Navy. I was a mechanical engineer for  
 4 the Navy.  
 5 Q. And how long did you work -- was this --  
 6 A. 15 years.  
 7 Q. Okay. Was this the reserves or was this --  
 8 A. No. I was actually a civilian, working for the Navy  
 9 Surface Warfare Center down in Indian Head.  
 10 Q. Do you still work for the Navy?  
 11 A. No.  
 12 Q. When did you stop working for the Navy?  
 13 A. I lost that job for dirty urine.  
 14 Q. For a dirty urine?  
 15 A. Yes. Back in early 2001.  
 16 Q. So you had that job until 2001?  
 17 A. Yes.  
 18 Q. And that dirty urine was for what type of substance?  
 19 A. Cocaine.  
 20 Q. Okay. Back around 1985, 1986, when you were working as  
 21 an engineer for the Navy, did you have any other jobs?  
 22 A. I had businesses.  
 23 Q. Tell us about that. What kind of business?  
 24 A. I had a mobile rib business and we were selling neutral  
 25 supplements, me and my ex-wife.

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Official Court Reporter*

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- 1 Q. Okay. Let's take that one at a time. The rib business  
 2 was yours?  
 3 A. It was me and two -- some other -- I had one other  
 4 partner.  
 5 Q. And did that supplement the income you had from the Navy?  
 6 A. Oh, yeah. We did very well.  
 7 Q. Okay. How long did you have that -- do you still have  
 8 that business?  
 9 A. No, I sold it.  
 10 Q. When did you sell it?  
 11 A. I could say probably around about '92-93.  
 12 Q. Okay. And then you also made a reference to a business  
 13 you had with your ex-wife?  
 14 A. Yes.  
 15 Q. Tell us just generally what kind of business that was.  
 16 A. It was a multi-level market neutral supplemental company.  
 17 Q. I'm going to ask you to slow down.  
 18 A. Okay. It's a multi-level marketing neutral supplement  
 19 company where we also did retail. We did weight loss products,  
 20 cleansing products, body wraps, things of that sort.  
 21 Q. Was this your company or your wife's?  
 22 A. It was her company, but I was a distributor.  
 23 Q. So how much did the Navy job -- how many hours a week did  
 24 you work there?  
 25 A. We worked a 40-hour week.

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- 1 Q. So you did these two jobs on top?  
 2 A. Well, I did the rib job -- 40 hours a week; then I did  
 3 the rib job seven days a week and then also assisted in that, so  
 4 I did a lot of work. I worked a lot.  
 5 Q. Okay. Now, you said you got introduced -- I want to go  
 6 back to 1986, when you said you were introduced to crack cocaine  
 7 through a lady, you said?  
 8 A. Yes.  
 9 Q. Was this the woman who's now your ex-wife or was this  
 10 somebody else?  
 11 A. No, somebody else.  
 12 Q. Were you married at the time or no?  
 13 A. No.  
 14 Q. Okay. And when you were first introduced to crack, after  
 15 that, how frequently or infrequently, shortly after that, did  
 16 you use crack?  
 17 A. When I first was introduced to it, I was hooked the first  
 18 night and then it -- you know, once every week, twice -- it just  
 19 progressed until I was at the point where I was out there weeks  
 20 at a time.  
 21 Q. Okay. When would you say you got to that point when you  
 22 were out, as you put it, weeks at a time?  
 23 A. The worst time was in '89. Then I went to treatment  
 24 after that.  
 25 Q. Okay. And was that -- what kind of treatment was that?

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- 1 A. Rehabilitation.  
 2 Q. Was that inpatient or outpatient?  
 3 A. Inpatient, California.  
 4 Q. How long were you inpatient?  
 5 A. I went there for 30 days.  
 6 Q. And was it successful on any -- was it successful?  
 7 A. Yeah. I came back and I stayed clean for three years.  
 8 Q. So that would put us from 1989 to about 2002 (sic)?  
 9 A. Yeah.  
 10 Q. And then tell us what happened in 2002.  
 11 A. Well, I relapsed.  
 12 Q. Any particular reason or --  
 13 A. Frustration. It was just an excuse. I just wanted to  
 14 get high, really.  
 15 Q. Okay. And when you started up again, where were you --  
 16 just generally, where were you living at that time?  
 17 A. I was living in the Oxon Hill, Maryland, Fort Washington,  
 18 right there off of -- 2114 Bottomly Field Road. I was living  
 19 there.  
 20 Q. What's the road again?  
 21 A. 2114 Bottomly Field Road. It's a townhouse that we had  
 22 at the time.  
 23 Q. Okay. Now, you made a reference to an ex-wife. Were you  
 24 married at this time, 1992?  
 25 A. Yes.

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- 1 THE COURT: What was the date you quoted?  
 2 MR. LEON: I said 1992. I'm sorry. I meant -- I'll  
 3 withdraw it. I said the wrong --  
 4 BY MR. LEON:  
 5 Q. Let me backtrack. I think everyone's on the same page  
 6 but me.  
 7 When did you -- did you mention 1992?  
 8 A. No, no.  
 9 Q. Okay. You mentioned 2002?  
 10 A. No, you did.  
 11 Q. Okay. Let me take one more step back. When did you  
 12 relapse again?  
 13 A. Okay. When I went to treatment, it was '89.  
 14 Q. Right.  
 15 A. I came back and I stayed clean for three years and I  
 16 started relapsing again in like 1992.  
 17 Q. Okay. And that was --  
 18 A. Right.  
 19 Q. Okay.  
 20 THE COURT: What date did you just say?  
 21 THE WITNESS: 1992.  
 22 BY MR. LEON:  
 23 Q. In 1992 --  
 24 A. 1989 is when I went to treatment and I stayed clean three  
 25 years after that.

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- 1 Q. Right. So that gets us to 1992?  
 2 A. Right.  
 3 Q. Okay. In 1992 --  
 4 A. I relapsed again.  
 5 Q. So that was about 15 years ago, 1992?  
 6 A. Yes.  
 7 Q. Okay. At that time you relapsed?  
 8 A. I relapsed again.  
 9 Q. And my question about that time, where were you living?  
 10 Was that Oxon Hill?  
 11 A. I was still in Oxon Hill.  
 12 Q. Okay. And at that time were you married?  
 13 A. Yes.  
 14 Q. Okay. You made a reference to relapsing. When you  
 15 relapsed, how frequently or infrequently did you use crack  
 16 cocaine at that time?  
 17 A. Well, at that time, I probably was out there no longer  
 18 than 30 days and I came back in. I wasn't out there 30 days,  
 19 but I would go out there three or four days, stop, three or four  
 20 days or two or three days or an hour and stop and come back.  
 21 You know, I did that for about 30 days, off and on like that.  
 22 Q. Okay. What would happen at the end of that 30-day  
 23 period?  
 24 A. I would go back into my program and I would stay clean  
 25 again two years.

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1 Q. Okay. Well, let's break that down, going back to 1992.  
 2 In 1992, did the three jobs you mentioned, did you still have  
 3 those three jobs?  
 4 A. Yes, I did.  
 5 Q. You were still working for the Navy?  
 6 A. Yes, I was.  
 7 Q. And you had the rib business?  
 8 A. Yes, I did.  
 9 Q. And you were working with your wife and her company?  
 10 A. Yes, I did.  
 11 Q. If you took 30 days off to do what you just said you did,  
 12 how did you keep these jobs?  
 13 A. Well, I was a functional addict.  
 14 Q. Okay. So you would actually still go to work and then --  
 15 A. Oh, yeah.  
 16 Q. Did you sleep?  
 17 A. Sometimes.  
 18 Q. And during these 30-day periods, other than going to  
 19 work, did you go home to Oxon Hill or did you --  
 20 A. I went home to Oxon Hill.  
 21 Q. Okay. And then you made -- you've made references --  
 22 let's see if we can speed this along.  
 23 You made a reference to at least one other time when you  
 24 tried to stop your addiction and you said you got clean. From  
 25 1992 through the present, how many times would you say you've

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1 tried to break your addiction by --  
 2 A. Well, like I said --  
 3 Q. My question is how many times during that period of time,  
 4 1992 to the present, the 15-year period, would you say you tried  
 5 to stop your addiction by entering a program?  
 6 A. I went to treatment like four times.  
 7 Q. And are you an addict today?  
 8 A. Yes.  
 9 Q. Are you using crack cocaine today?  
 10 A. No.  
 11 Q. Okay. So you're not using, but you're in recovery?  
 12 A. Yes.  
 13 Q. Okay. How long have you been in recovery?  
 14 A. I've been in recovery since 1989.  
 15 Q. Okay. When's -- a better question might be when is the  
 16 last time you used crack cocaine?  
 17 A. Three years ago.  
 18 Q. And have you used since then?  
 19 A. No, I'm clean.  
 20 Q. Okay. Now, in 1992, when you wanted to get crack cocaine  
 21 to use, where did you get it back in 1992?  
 22 A. I would go to Congress Park.  
 23 Q. Okay. And you are -- are you familiar with Congress  
 24 Park?  
 25 A. Yes.

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1 Q. Let's go back. Beginning -- when did you first become  
 2 familiar with Congress Park? What period of time would you say?  
 3 A. Probably around about '90, '91, '92 time frame.  
 4 Q. Okay. And tell us the first -- tell us how you got to  
 5 know the Congress Park neighborhood.  
 6 A. Well, my habit was that I actually like to go out and  
 7 trick with girls and I was riding around, trying to pick up one  
 8 and I met a young lady off of Southern Avenue and she ended up  
 9 taking me into Congress Park.  
 10 Q. Did you know who that particular lady was that you picked  
 11 up?  
 12 A. Yes.  
 13 No, I didn't know her. No.  
 14 Q. Okay. And she took you to Congress Park, is what you  
 15 said?  
 16 A. Yes.  
 17 Q. As you sit here today, do you know that lady's name?  
 18 A. No.  
 19 Q. Okay. So when she took you to Congress Park, tell us  
 20 what happened.  
 21 A. We went back into an apartment building in the back of  
 22 Congress Park and that's when we smoked and, you know, had drugs  
 23 and did whatever we did.  
 24 Q. And was this just for one night or was this one of those  
 25 periods where you would stay for long stretches, this

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1 particular -- this first time that you went to Congress Park?  
 2 A. Yeah, that was a long stretch. I stayed three or four  
 3 days.  
 4 Q. Now, when you say you would stay for three or four days,  
 5 would you actually leave Congress Park for those three or four  
 6 days?  
 7 A. No.  
 8 Q. Where would you stay? Or where did you stay on this  
 9 occasion?  
 10 A. I stayed in an apartment in the back of Congress Park, in  
 11 her house.  
 12 Q. And on this particular occasion, how much -- in those  
 13 three or four days, how much crack would you say you purchased?  
 14 A. A lot. You know, about \$40 at a time sometimes.  
 15 Probably about 4- or \$500 on every two hours, so I probably  
 16 spent about \$3,000 that week, on average.  
 17 Q. And this would be in increments; in other words, not all  
 18 at once?  
 19 A. Yes, yes.  
 20 Q. Would you consume this alone and was this -- alone or  
 21 were there other people there?  
 22 A. With other people.  
 23 Q. How many other people would you say would be there -- or  
 24 were there on this occasion?  
 25 A. Shoot, at that time that house was in and out. It was

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1 probably five or six that I remember in the house.  
 2 Q. And who is buying the crack for yourself and these five  
 3 or six people?  
 4 A. They would always send somebody. I didn't know who it  
 5 was. Or somebody would come to the house.  
 6 Q. Who had the money to buy the crack?  
 7 A. A lot of times I had the money. Most of the time.  
 8 Q. Okay. And what -- other than smoking and partying with  
 9 you, what did the other people do? Did they contribute towards  
 10 the purchase of the crack?  
 11 A. No.  
 12 Q. Now, did you come back to Congress Park after this  
 13 occasion?  
 14 A. Yes.  
 15 Q. With this particular lady or somebody else?  
 16 A. I would come by myself.  
 17 Q. Okay. After now knowing about Congress Park, when you  
 18 went by yourself, tell us what you did when you would go there  
 19 by yourself. What would you do?  
 20 A. Well, I would go -- this is what happened. When I ended  
 21 up in that back apartment, I was there for a few days and then I  
 22 ended up -- I was afraid because there was a guy there that  
 23 acted like -- they were telling me he would rob me and  
 24 everything. And I told them I didn't want to be in their house  
 25 no more.

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1 So the guy I met down there, who was actually in  
 2 Narcotics Anonymous with me, took me up --  
 3 MR. ZUCKER: I'm sorry. I couldn't understand the last  
 4 thing.  
 5 THE COURT: He was in what with you?  
 6 THE WITNESS: He was in Narcotics Anonymous with me. But  
 7 I knew a guy that was out there, so he took me up to another  
 8 house, which ended up to be Gail's house. And that's where I  
 9 would come back to all the time.  
 10 BY MR. LEON:  
 11 Q. Okay. Do you know -- do you know Gail's name, other than  
 12 Gail? Do you know her last name?  
 13 A. I only know her by Gail.  
 14 Q. Okay. And when would you say this was when you met Gail?  
 15 Roughly when?  
 16 A. I guess it was around that time, '92 -- yeah.  
 17 Q. Okay. And once you met with Gail -- tell us that first  
 18 time you met with Gail, tell us what happened with her?  
 19 A. Well, we commenced to smoking and tricking.  
 20 Q. You and she would -- she would trick for you?  
 21 A. Yes.  
 22 Q. And how would you get crack to smoke with Gail?  
 23 A. She would go get it. I would give her the money and she  
 24 would go out and get it.  
 25 Q. And when you would hang out with Gail during this time

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 1 period, how long of a time would you spend with her?  
 2 A. Oh, man, I would stay over there for days, sometimes a  
 3 week. Mostly I stayed -- the longest I stayed was a week.  
 4 Q. What's the shortest you would stay?  
 5 A. An hour.  
 6 Q. Okay. And for the longer period of time -- let's take a  
 7 time in between. You said an hour and you said a week. Were  
 8 there times where you spent maybe two or three days?  
 9 A. Yes.  
 10 Q. During a time when you spent two or three days, how much  
 11 crack would you buy through Gail?  
 12 A. Thousands of dollars.  
 13 Q. Would Gail contribute -- you had the money?  
 14 A. Yeah, I had the money.  
 15 Q. You mentioned a couple of jobs, but it does sound like  
 16 you're mentioning a lot of money. How'd you pay for all this?  
 17 A. Well, I had jobs, money from the jobs. I had multiple  
 18 credit cards. I had -- you know, I had a lot of money in the  
 19 account. My business was making a lot of money.  
 20 Q. Well, when you say multiple credit cards, is it fair to  
 21 say that when you buy crack --  
 22 MR. ZUCKER: Objection, form.  
 23 THE COURT: Sustained.  
 24 BY MR. LEON:  
 25 Q. Okay. Did you purchase crack with credit cards?

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1 A. Well, sometimes I would buy them -- you know, buy things  
 2 where I have to pay. She would make the deal, say, "Okay.  
 3 Basically, you're going to have to pay them later."  
 4 And I'd tell her, "Well, I can buy them stuff from Sears"  
 5 and stuff like that, and they would go for it and I would have  
 6 to pay through credit cards.  
 7 And then at some point, I would actually go get the cash.  
 8 Q. Off of your credit card or off of --  
 9 A. Off of the credit card. Whatever means necessary.  
 10 Q. Okay. We'll get to that in a minute, but let's stay with  
 11 your first few encounters with Gail.  
 12 As you sit here today, beginning with when you first met  
 13 her in the early or so '90s, how many times would you say you  
 14 have hung out and partied with Gail, roughly?  
 15 A. Tons of times. Over 50. I mean, I probably can't even  
 16 count them. I don't even remember, it was so many times.  
 17 Q. And during the times that you would hang out and party  
 18 with Gail, did you become familiar with some of the people who  
 19 she would purchase crack from?  
 20 A. Yeah. When I had to make or pay my debts, yeah.  
 21 Q. What do you mean by that?  
 22 A. Well, sometimes she would make credit calls for me. She  
 23 would get the credit and when it was the time to pay it, that's  
 24 when I would meet the people that I would have to pay it to.  
 25 Q. Were there any other neighborhoods, other than Congress

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1 Park, that you would buy crack from during this time?  
 2 **A.** I did venture out, yes.  
 3 **Q.** Say it again.  
 4 **A.** I did venture out other than Congress Park before.  
 5 **Q.** What other neighborhoods?  
 6 **A.** I was in -- I don't know the name of the streets, but off  
 7 of Martin Luther King. You know, different -- always in that  
 8 area, you know, within walking distance of 13th Place, Congress  
 9 Park.  
 10 **Q.** Now, you've made a reference to Gail and Congress Park.  
 11 And I think you said earlier that you got connected with Gail  
 12 because you were concerned for your safety. Is that fair or  
 13 not?  
 14 **A.** That's right.  
 15 **Q.** Okay. When you got comfortable with Gail, did you become  
 16 more comfortable for your safety?  
 17 **A.** Well, she told me who was the heavy hitters and who not  
 18 to mess with.  
 19 **Q.** Okay. Did -- through your dealings with Gail, did you  
 20 then become comfortable with who you could deal with and who you  
 21 shouldn't deal with in Congress Park?  
 22 **A.** Yeah. I know I had to do what I had to do.  
 23 **Q.** What do you mean by that?  
 24 **A.** Because they told me who -- you know, what they -- these  
 25 people are known to do this.

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1 MR. ZUCKER: Objection.  
 2 MS. WICKS: Objection.  
 3 MR. PURPURA: Objection. It's a hearsay response.  
 4 MR. ZUCKER: And it's also unknown declarant.  
 5 MR. LEON: I was just following up on the question. I can  
 6 ask another question.  
 7 THE COURT: Do that.  
 8 BY MR. LEON:  
 9 **Q.** I'll follow up, but try not to tell us what anyone said  
 10 to you. But I am going to ask still about your understanding  
 11 and your comfort level at Congress Park, okay?  
 12 **A.** Um-hmm.  
 13 **Q.** But try to do so without telling us what anyone else  
 14 said.  
 15 Next question is this: Over time, through your dealings  
 16 with Gail, did you become comfortable, yes or no, with who you  
 17 could or couldn't deal with in Congress Park, other than Gail?  
 18 **A.** Did I become comfortable with them?  
 19 **Q.** Let me ask it differently.  
 20 **A.** I was never comfortable with anybody else.  
 21 **Q.** Okay.  
 22 **A.** I wasn't even totally comfortable with Gail, but I was  
 23 getting high.  
 24 **Q.** What do you mean by you weren't totally comfortable with  
 25 Gail?

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1 **A.** Well, I mean, I felt some security in her house, you  
 2 know. And you know, in the process of getting high, you never  
 3 know what's going to happen. Somebody could have robbed her  
 4 house. So you're not always totally comfortable.  
 5 **Q.** Would you get high -- you said you would get high in her  
 6 house. Would you ever get high in Congress Park somewhere other  
 7 than her house?  
 8 **A.** I have before, yes.  
 9 **Q.** And where else?  
 10 **A.** Down farther on the right, when you go like towards  
 11 Alabama Avenue, I believe.  
 12 **Q.** Okay.  
 13 **A.** A couple buildings down.  
 14 **Q.** Mr. Martin, do you remember -- I think it was yesterday,  
 15 you and I looked at a map of Congress Park. Do you remember  
 16 that?  
 17 **A.** Yes.  
 18 **Q.** And did you recognize that map?  
 19 **A.** Yes.  
 20 **Q.** What did you recognize it to be?  
 21 **A.** 13th Place, Congress Park, where I was at.  
 22 MR. LEON: Your Honor, with the Court's permission, could  
 23 we publish Government's Exhibit 100.1 to the witness, which is in  
 24 evidence?  
 25 BY MR. LEON:

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1 **Q.** Can you see that on your screen right there?  
 2 **A.** Yes.  
 3 MR. LEON: For the record, we published 100.1.  
 4 BY MR. LEON:  
 5 **Q.** Is that the map you and I looked at yesterday?  
 6 **A.** Yes.  
 7 **Q.** Do you recognize it?  
 8 **A.** Yes.  
 9 **Q.** And what do you recognize it to be?  
 10 **A.** It's where I used to get high at.  
 11 **Q.** Okay. Now, you made reference to Gail. Do you see on  
 12 that map the building that Gail lived in?  
 13 **A.** Yes.  
 14 **Q.** Okay. Do you have --  
 15 May I approach, Your Honor?  
 16 THE COURT: Yes.  
 17 BY MR. LEON:  
 18 **Q.** I'm going to hand you this pen -- there's a pen there,  
 19 too. Without using the ink portion, can you just touch the part  
 20 of the screen where Gail's apartment building is depicted.  
 21 **A.** Okay (indicating).  
 22 I'm messing it up. I didn't know the whole thing was  
 23 going to go red.  
 24 **Q.** You can clear the screen by touching the lower right-hand  
 25 portion and why don't you just touch it once.

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1 A. Right there, where the arrow is pointing at, basically.  
2 Q. Just for the record, you made a diagonal line at the  
3 intersection a little to the left of the intersection of  
4 Congress Street and 13th Place?  
5 A. That's right.  
6 Q. And sort of looks like an arrow pointing sort of  
7 downward?  
8 A. Yeah. The arrow, that's it.  
9 Q. So for the record, and tell me if this is accurate,  
10 you're pointing and you're indicating the building that is in  
11 the -- at the intersection of Congress Street and 13th Place, in  
12 the lower left-hand portion of that intersection?  
13 A. Yes.  
14 Q. Okay. And that's the building Gail live in?  
15 A. Yes.  
16 Q. Okay. How many times would you say you've been in that  
17 building?  
18 A. Hundreds.  
19 Q. Now, getting back to Gail, and you said you were not  
20 completely comfortable with her, but you were getting high,  
21 something like that?  
22 A. Yes, um-hmm.  
23 Q. My next question is this: Over time, did you get to know  
24 other people, other than Gail, who sold crack in Congress Park?  
25 A. Yeah.

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1 Q. And over time, other than Gail, did you purchase, from  
2 time to time, crack from other people in Congress Park?  
3 A. Yes, I did.  
4 Q. Who would you mostly buy your crack from, though,  
5 however?  
6 A. You want to know by name?  
7 Q. Well, let me -- if you know by name, yeah. Other than  
8 Gail -- other than -- let me -- yes.  
9 I don't know if the question is clear. Did you  
10 understand the question? If you did, answer the question.  
11 A. Well, I bought from Gail and I had another guy that I  
12 used to buy from.  
13 Q. Who was that guy?  
14 A. His name was Dazz.  
15 Q. Okay. And let's start with Dazz. Other than Gail, you  
16 mentioned Dazz. How many times would you say while in Congress  
17 Park you purchased from Dazz?  
18 A. A lot. It was, you know, uncountable probably.  
19 Q. And when you would buy from Dazz, how much would you buy  
20 from him at a time?  
21 A. You know, it would be like 50s, \$50 worth. It wouldn't  
22 be a whole lot. He would come back in multiples. Every time I  
23 would want some more, they would come back and get it for me.  
24 MR. PURPURA: Objection to "they" unless we can identify  
25 who we're talking about. Move to strike.

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Official Court Reporter*

3768

1 MR. LEON: I'm happy to follow up with "they."  
2 BY MR. LEON:  
3 Q. Other than Dazz, you said "they." Who else -- who do you  
4 mean by "they"?  
5 A. Well, I don't know them specifically by name, but they --  
6 you know, the guys that she would bring in, whoever they were.  
7 Do you want me to -- I don't know their names.  
8 Q. Okay. If you don't know their names, you don't know  
9 their names.  
10 A. Right.  
11 Q. But let's stay with Dazz. Did you become familiar with  
12 any of the people that Dazz dealt with?  
13 MR. ZUCKER: Objection, basis.  
14 THE COURT: Was the question: Did you know -- did you  
15 become familiar with people he dealt with? Is that what you  
16 asked?  
17 MR. LEON: Yes.  
18 THE COURT: And the basis is?  
19 MR. ZUCKER: The basis is the basis. Is it personal  
20 knowledge? Is it hearsay? How is he to know what --  
21 THE COURT: I'll let him answer yes or no and then you can  
22 follow up. Go ahead.  
23 THE WITNESS: Yeah. Some of the people I did get familiar  
24 with, yes.  
25 BY MR. LEON:

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Official Court Reporter*

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1 Q. Okay. When you would deal with Dazz directly, would you  
2 also, with your own eyes, see people that he was with?  
3 A. Yes.  
4 Q. Okay. Did you become familiar with any of his -- any  
5 people that Dazz was related to?  
6 A. His brother.  
7 Q. He had a brother?  
8 A. Yes.  
9 Q. Do you remember his brother's name?  
10 A. No.  
11 Q. Would you recognize a picture of his brother if you saw a  
12 picture of his brother?  
13 A. Yes.  
14 Q. And -- okay. Do you remember looking through some  
15 photographs a few weeks ago with an FBI agent?  
16 A. Yes.  
17 Q. And do you remember reviewing a photograph of Dazz?  
18 A. Yes.  
19 Q. And was that the Dazz that you're referring to right now?  
20 A. Yes.  
21 Q. And do you remember reviewing a photograph -- some  
22 photographs, one of those photographs being a photograph of the  
23 brother?  
24 A. Yes.  
25 Q. Dazz's brother?

*Scott L. Wallace, RDR, CRR  
Official Court Reporter*

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- 1 Q. And she was introduced to you as somebody who you could  
 2 basically go to her apartment, party, she'd range for you to get  
 3 drugs, and sex was involved too, right?  
 4 A. She would help me get whatever I wanted or participate.  
 5 Q. I'm sorry?  
 6 A. Or participate.  
 7 Q. And through her, you met my client, Dazz, right?  
 8 A. Exactly.  
 9 Q. And initially she would make the purchases for you and  
 10 then she introduced you to Dazz and then you would make the  
 11 purchases yourself, right?  
 12 A. Yes.  
 13 Q. And when you dealt with Dazz, you said you bought  
 14 basically \$50 worth at a time, generally, right, somewhere in  
 15 that neighborhood?  
 16 A. In the beginning, um-hmm.  
 17 Q. And when you did that, you would give Dazz the money and  
 18 he will give you or Gail the drugs, right?  
 19 A. At some point, I started giving him money, yes.  
 20 Q. Okay. Now, no one else -- it was basically you and Gail  
 21 involved in those transactions with Dazz and no one else, right?  
 22 A. Well, Gail would make all the transactions, no matter who  
 23 they were. It wasn't always Dazz.  
 24 Q. Okay. But when Dazz -- when you bought from Dazz or Gail  
 25 bought from Dazz, Dazz didn't consult with somebody else about

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Official Court Reporter*

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- 1 what he was going to charge you, in front of you, did he?  
 2 A. No.  
 3 Q. Okay. And you gave the money, and Dazz, from what you  
 4 could see, put the money in his pocket or did what he wanted  
 5 with it?  
 6 A. I mean, if he was out -- if I wanted a \$100 worth, he  
 7 would give me a \$100 worth of crack. If I wanted \$200 he would  
 8 give me \$200 worth, you know, whatever I wanted.  
 9 Q. Right. But he wasn't part of a group coming to deal with  
 10 you; it was Dazz and you or Dazz, Gail and you, right?  
 11 A. On the most part, yes.  
 12 Q. Okay. And from what you could observe, he didn't  
 13 share -- he didn't have to consult with anybody else about  
 14 setting prices, right?  
 15 MR. LEON: Objection, form.  
 16 THE WITNESS: I don't know.  
 17 THE COURT: Hold on a second. When there's an objection,  
 18 let me hear it.  
 19 MR. LEON: Objection, form, speculation.  
 20 BY MR. ZUCKER:  
 21 Q. From what you observed?  
 22 THE COURT: All right.  
 23 THE WITNESS: I don't know.  
 24 BY MR. ZUCKER:  
 25 Q. And when you dealt, you dealt with a couple other people

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- 1 there, right?  
 2 A. Yes.  
 3 Q. And when you dealt with them, you gave them the money or  
 4 gave the money to Gail and you got the drugs from them, right?  
 5 A. Yes.  
 6 Q. And again, there was no one else that they had to go and  
 7 consult with, right? You dealt with the individual sellers?  
 8 A. I don't know.  
 9 Q. Well, from what you observed?  
 10 A. I wasn't observing. I just got it and went to the back  
 11 room.  
 12 Q. Okay. Now, Dazz never said to you, "you have to buy from  
 13 me" did he?  
 14 A. He had suggested for my safety that I buy from him.  
 15 Q. Okay. For your safety?  
 16 A. Yeah. Because everybody wasn't on the up and up.  
 17 Q. And that's how your relationship with Dazz began, was as  
 18 buyer and seller, right, of crack cocaine?  
 19 A. Basically.  
 20 Q. Okay. But over the course of time, it developed and  
 21 became a little closer and a little more -- there were other  
 22 contacts; is that fair to say?  
 23 A. Like what?  
 24 Q. Well, like you told us that he will come to your house,  
 25 right?

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Official Court Reporter*

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- 1 A. Um-hmm.  
 2 Q. And at some point he was even coming to your house every  
 3 day, right?  
 4 A. That's right.  
 5 Q. To checkup on you?  
 6 A. He did do that.  
 7 Q. To watch TV with you?  
 8 A. He did do that.  
 9 Q. To socialize with you?  
 10 A. He did do that.  
 11 Q. And when he came to your house, he never put a gun in  
 12 your face and took anything, did he?  
 13 A. No.  
 14 Q. He never stole from you in the house?  
 15 A. No, not in my house.  
 16 Q. He never attacked you in your house?  
 17 A. No.  
 18 Q. He never threatened you?  
 19 A. No.  
 20 Q. And he never did any of that stuff in front of you with  
 21 anyone else, did he?  
 22 A. Well, no.  
 23 Q. Okay. And as a matter of fact, you talked about a  
 24 business that your wife owned, but you participated in, right?  
 25 A. That's right.

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Official Court Reporter*

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- 1 Q. Selling weight loss and basically health products, right?  
 2 A. Yes.  
 3 Q. And that was out in Rivertowne, Maryland, right?  
 4 A. Oxon Hill.  
 5 Q. Okay. You had a store out there?  
 6 A. Um-hmm.  
 7 Q. And you were a distributor, right?  
 8 A. That's right.  
 9 Q. And Dazz worked with you in that, too, sometimes, didn't  
 10 he?  
 11 A. Well, he became a distributor.  
 12 Q. Well, he worked for you in that business as a distributor  
 13 for these health products, right?  
 14 A. No.  
 15 Q. Where did he work at?  
 16 A. He came to a couple trainings at the office, and that was  
 17 it.  
 18 Q. And didn't he work in the store sometimes?  
 19 A. No, we actually had him to witness and help us in some --  
 20 we were doing body wraps, so we had a large.  
 21 Q. I'm sorry, "body" what?  
 22 A. Body wraps. And he had a lot of clients and he actually  
 23 helped me add up some weight chart sheets, you know, behind the  
 24 counter, and I wanted him to see what the business could do.  
 25 That's all we did.

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Official Court Reporter*

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- 1 Q. So you helped train him?  
 2 A. No, I didn't help, that was just a task. He came to  
 3 training on the nights we had training.  
 4 Q. Okay. Okay.  
 5 A. That wasn't done by me.  
 6 Q. I'm sorry. The conversations in court are kind of not  
 7 like normal.  
 8 A. I'm sorry.  
 9 Q. I know what you mean. He's got to be able to take down  
 10 my question and your answer, so I'll try not to talk over you  
 11 and you try -- even when you see what question I'm asking you,  
 12 and you know where I'm going, wait until I finish and I'll try  
 13 to show you the same courtesy.  
 14 A. Not a problem.  
 15 Q. It's a court thing.  
 16 A. Not a problem.  
 17 Q. So he came to the trainings, and he worked in the store  
 18 sometimes?  
 19 A. No.  
 20 Q. For certain tasks?  
 21 A. No, he came to the training a couple times, him and his  
 22 girlfriend.  
 23 Q. Okay.  
 24 A. I had him to help me one time --  
 25 Q. Okay.

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Official Court Reporter*

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- 1 A. -- at the store and then that was to write down some  
 2 numbers. That was it.  
 3 Q. Okay. Well, didn't he also work under your license  
 4 selling these healthcare products?  
 5 A. He worked for Full Life Research, Full Life Research.  
 6 Q. I guess I'm not so much concerned with whether he works  
 7 for you or for the corporation.  
 8 A. Right.  
 9 Q. But you did legitimate work in that business that you  
 10 helped train him in?  
 11 A. I didn't see him do no legitimate work.  
 12 Q. You said he worked for Full Life?  
 13 A. He was a distributor for Full Life. I don't know what  
 14 his sales was. I didn't see him make any sales.  
 15 Q. Okay. He was given --  
 16 A. A distributor ID number.  
 17 Q. And you don't know how active he was, but he was --  
 18 A. I didn't see any numbers on his records, when I get the  
 19 records every month.  
 20 Q. Now, in addition, you were going through some domestic  
 21 relations proceedings that ultimately led to your divorce in, I  
 22 think, it was PG, right?  
 23 A. That's right.  
 24 Q. Okay. And Dazz was a friend to you throughout that time,  
 25 wasn't he?

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- 1 A. Yes.  
 2 Q. As a matter of fact, he took you out to some lawyer, I  
 3 think, on 8th and H, Northeast, D.C. and helped you arrange for  
 4 a lawyer to help arrange for those proceedings, made a  
 5 recommendation?  
 6 A. He gave me a ride. I made the recommendation -- I made  
 7 the arrangements.  
 8 Q. Okay. So he gave you a ride, took you out, and helped  
 9 you make arrangements when you were going through a difficult  
 10 period with your wife, correct?  
 11 A. Yes.  
 12 Q. And he was a friend for you throughout that, right?  
 13 A. I would say he was there, yeah.  
 14 Q. He supported you when you were going through that  
 15 difficult time?  
 16 A. I mean, yeah -- if I wanted some crack, I could get  
 17 crack.  
 18 Q. I'm talking about --  
 19 A. That's the support I would get, whatever I needed.  
 20 Q. And when you needed other favors as a friend, he would do  
 21 them as well?  
 22 A. That's right.  
 23 Q. And that included taking you to a lawyer?  
 24 A. That's right.  
 25 Q. And that included giving you rides to court?

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Official Court Reporter*

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- 1 A. If need be, yes.
- 2 Q. And, you know, kind of sitting around being emotionally  
3 supportive when you were going through a difficult time?
- 4 A. Yes.
- 5 Q. Okay. And similarly, you've -- well, you even stayed at  
6 his house for a while, didn't you?
- 7 A. Yeah, I stayed at his house.
- 8 Q. And that's a house he lived in on 9th Street with his  
9 wife and children?
- 10 A. Girlfriend and children.
- 11 Q. Nina?
- 12 A. Yes, that's her name.
- 13 Q. The mother of his child, the woman he's been with for  
14 years?
- 15 A. That's her name.
- 16 Q. And you stayed on the couch there when you were going  
17 through some difficult times?
- 18 A. Sure did.
- 19 Q. Okay. And so certainly your relationship with him --  
20 well, actually when you were going through some difficult times,  
21 he even helped you out financially a couple of times, didn't he?
- 22 A. No.
- 23 Q. Didn't he buy a PlayStation for your kids?
- 24 A. That was my money.
- 25 Q. That was your money he used?

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Official Court Reporter*

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- 1 A. Yes.
- 2 Q. He made the purchase for you?
- 3 A. Well, I was trying to slowly stop smoking and I asked him  
4 to hold \$200 for me to make sure I paid for Christmas and I gave  
5 him the money. That was my money.
- 6 Q. Okay. And when you -- he would certainly sell you crack  
7 cocaine when you wanted to use it, right?
- 8 A. Yes.
- 9 Q. But when you were trying to quit crack cocaine, he  
10 actually tried to help you through that, too, didn't he?
- 11 A. He did.
- 12 Q. And that was going on part of the time while you were  
13 staying at his house, right?
- 14 A. That's right.
- 15 Q. And as a matter of fact, you would sneak out on occasion  
16 and he would pull you out of crack houses, didn't he?
- 17 A. He'd come and get me out of crack houses.
- 18 Q. He pulled you out of crack houses when you were trying to  
19 stop?
- 20 A. Yes.
- 21 Q. Tried to support you emotionally?
- 22 A. Yes.
- 23 Q. Okay. And as a matter of fact, in some of those  
24 instances, you bought crack on credit from other people, right?
- 25 A. Yes.

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Official Court Reporter*

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- 1 Q. And he basically intervened on your behalf and said,  
2 "Hey, look, that's my uncle, I'll take care of it," when you  
3 were threatened --
- 4 A. Yes.
- 5 Q. -- when people were trying to collect debts for money you  
6 owed them for your crack cocaine, right?
- 7 A. That's right.
- 8 Q. Okay. So he was a friend that way, looked out for you,  
9 right?
- 10 A. Well, I guess so -- you could look at it like that.
- 11 Q. Well, he referred to you -- in front of you, he said  
12 "Look, that's my uncle, I'll take care of it. Leave him be,"  
13 that kind of thing?
- 14 A. He would say he would take care of it.
- 15 Q. Okay. So your relationship with him was much more than  
16 just buyer and seller; is that a fair statement?
- 17 A. Yeah.
- 18 Q. I want to turn to this incident you told us about when  
19 the money was taken out of your car?
- 20 A. Okay.
- 21 Q. Do you remember that?
- 22 A. Yes.
- 23 Q. Okay. Do you remember what year that was?
- 24 A. No, not exactly.
- 25 Q. And when that happened, you went over -- you were at

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- 1 Gail's apartment, right?
- 2 A. That's right.
- 3 Q. You were getting high?
- 4 A. I was in the commencing of getting high, yes.
- 5 Q. And you were on -- what do you want to call it, a bender  
6 a binge, spent a few hours if not a few days staying high and  
7 having fun?
- 8 A. Well, I had just got impulses. I was supposed to make a  
9 deposit and just went.
- 10 Q. When you're on a tear, it's a tear?
- 11 A. It can be a tear. Yes, it could.
- 12 Q. You're out of control, right?
- 13 A. Well, I wasn't out of control, but I was, you know --  
14 once you start getting high, you want to continue.
- 15 Q. Crack has that effect on people, once you start, it's  
16 hard to stop. It's hard to put that pipe down?
- 17 A. It's hard to put the pipe down, but it's not a fact that  
18 you don't know what you're doing.
- 19 Q. Okay. As a matter of fact, you went -- on one instance,  
20 you went through over \$7,000, you estimated, in one binge?
- 21 A. Sure did.
- 22 Q. All right. Let's move back for a moment to the time with  
23 the keys -- your testimony -- you don't know what year this  
24 happened, right?
- 25 A. It was the year Mercedes built that new style truck,

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Official Court Reporter*

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- 1 Q. I'm not trying to pin an exact date, but roughly how long  
2 did this last? From '91, '92 until what date?  
3 A. I left here in -- when he went to jail, that's pretty  
4 much -- a little bit after that, I left here and that was 2001,  
5 early 2 -- I left here in about 2002, some time frame like  
6 that.  
7 Q. So from --  
8 A. January.  
9 Q. Approximately ten years; is that correct?  
10 A. About that time.  
11 Q. And during that ten-year period of time, how often, just  
12 roughly, ballpark, how often would you go down to Congress Park?  
13 A. Uhm, a lot, almost every weekend, almost -- three or four  
14 times a day.  
15 Q. And is it fair to assume that for a recovering addict,  
16 this testimony is not easy for you; is that correct?  
17 A. That's right.  
18 Q. Now keeping that in mind, I'll move as quick as I can.  
19 Just as far as the people that supplied you during this  
20 ten-year period of time with crack cocaine in Congress Park, the  
21 individuals who supplied you, the amounts varied from these  
22 different people; is that correct?  
23 A. Right.  
24 Q. Some people supplied you often, right?  
25 A. Whenever I asked for it.

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Official Court Reporter*

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- 1 Q. And then you mentioned others who were maybe three times,  
2 four times, up to maybe ten times, correct?  
3 A. That's right.  
4 Q. Now you indicated that Gail supplied you crack cocaine  
5 for a period of time; is that correct?  
6 A. Gail never supplied me with crack. She went and got it  
7 for me.  
8 Q. She went and obtained crack from someone?  
9 A. That's right.  
10 Q. And then you would receive the crack from her?  
11 A. That's right.  
12 Q. So she actually gave you the crack cocaine?  
13 A. That's right, she would bring it to the back room.  
14 Q. And you would give her the money for it?  
15 A. I would give her the money.  
16 Q. And you would share the crack cocaine --  
17 A. No, I would give her the money. She didn't have it when  
18 I got there, she had to go get it. She never had it when I got  
19 to the house. She had to go get it.  
20 Q. You gave her money?  
21 A. I gave her money.  
22 Q. She'd go out and get crack?  
23 A. That's right.  
24 Q. She'd bring crack back to you?  
25 A. That's right.

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Official Court Reporter*

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- 1 Q. And then you would smoke the crack?  
2 A. That's right.  
3 Q. And Gail would partake with you?  
4 A. That's right.  
5 Q. And at times, other people would partake with you?  
6 A. That's right, sometimes.  
7 Q. And it would be all on you?  
8 A. I was footing the bill.  
9 Q. You were footing the bill?  
10 A. Basically.  
11 Q. And you indicated you had four to five, maybe six people  
12 sometimes, at Gail's house smoking the crack, which you paid  
13 for?  
14 A. No, I never liked crowds. I wasn't a crowd person.  
15 Q. I thought you indicated that you had about four or five  
16 people over to Gail's, do you remember that?  
17 A. There would be four or five people coming in and out. I  
18 might share something with them, but I would always ask the  
19 crowds to leave. I never liked crowds.  
20 Q. Fair enough. So you received crack from Gail, right?  
21 She handed you crack?  
22 A. She got the crack and handed it to me.  
23 Q. And as you already indicated, you received crack from  
24 Dazz; is that correct?  
25 A. At some point, yes.

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Official Court Reporter*

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- 1 Q. And he's the second person?  
2 A. Um-hmm.  
3 Q. And you received a small amount from his brother,  
4 correct?  
5 A. I got crack from his brother.  
6 Q. And you indicated that was on very rare occasions?  
7 A. Very rare.  
8 Q. Over a ten-year period of time?  
9 A. That's right.  
10 Q. And that would be the third person you actually received  
11 crack from in the Congress Park area; is that correct?  
12 A. So far.  
13 Q. Okay. Good. And you also indicated that, at least as  
14 far as Dazz was concerned, that he tried to keep the sales to  
15 himself at one point, right?  
16 A. Yeah, he wanted me to contact him as the person who --  
17 because you know, they knew I was spending money, so they wanted  
18 my business -- he wanted my business.  
19 Q. And you're a salesperson, too, right?  
20 A. That's right.  
21 Q. And if someone is -- has money and their money is there  
22 to spend, you want to corner that person as a salesperson, don't  
23 you?  
24 A. That's right.  
25 MR. LEON: Objection.

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1 Q. And you would have direct contact with a lot of these  
 2 individuals when you went to purchase crack cocaine; is that  
 3 correct?  
 4 A. Those main ones, I had direct contact with.  
 5 Q. And how about -- did Gail have a roommate during this  
 6 period of time, a Cary Kellibrew, (sic) do you remember him?  
 7 A. Kairi?  
 8 Q. Kairi.  
 9 A. I remember a guy.  
 10 Q. I'm being whispered a nickname. It's Baby Kai?  
 11 A. The light-skinned -- yeah, um-hmm.  
 12 Q. And Baby Kai, he would also --  
 13 A. Yeah, I forgot about him.  
 14 Q. He also sold you crack; is that correct?  
 15 A. Yeah.  
 16 Q. Was he actually staying at Gail Parson's house for a  
 17 period of time?  
 18 A. Yeah, he was staying on the couch, yeah.  
 19 Q. So that's approximately 9 individuals that you can  
 20 remember that were selling you crack cocaine over this ten-year  
 21 period of time; is that correct?  
 22 A. That's right.  
 23 Q. And -- just one second.  
 24 MR. PURPURA: Your Honor, if I could have just one moment,  
 25 please.

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Official Court Reporter*

3864

1 Q. Four rocks?  
 2 A. Yeah.  
 3 Q. Five rocks?  
 4 A. Yeah.  
 5 Q. What amount of rocks did you have to reach before you  
 6 couldn't drive --  
 7 A. It wasn't an amount of rocks. I couldn't even count  
 8 them. I would do so much and if I was up three or four days,  
 9 time, no rest, no food, that's when it would deplete the body.  
 10 Q. Let me ask you this: You talked about being frightened  
 11 when you were smoking crack cocaine. Are you saying that  
 12 smoking crack made you paranoid?  
 13 A. Oh, yeah.  
 14 Q. Okay. How -- and when would you first start to feel  
 15 paranoid, after the first rock, the second rock?  
 16 A. Sometimes the first one.  
 17 Q. And would the paranoia increase with each rock?  
 18 A. It would never leave sometimes. Sometimes I didn't get  
 19 paranoid, I could calm down. All depends on my environment.  
 20 Q. So let's say you're smoking and you smoke the first rock  
 21 and you get paranoid.  
 22 A. Um-hmm.  
 23 Q. And you remember your feelings, right?  
 24 A. Yeah.  
 25 Q. Okay. So now you're smoking the second rock. Doesn't

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1 your level of paranoia increase?  
 2 A. Paranoia is paranoia. It doesn't go up or down.  
 3 Q. Okay. Now, I want to ask you about this truck and these  
 4 payments.  
 5 A. Um-hmm.  
 6 Q. You indicated that you owed somebody \$2,500, right?  
 7 A. That's right.  
 8 Q. And because you owed them \$2,500, you went to buy a  
 9 \$34,000 truck?  
 10 A. I didn't -- I didn't go to buy him that for that \$2,500.  
 11 I went to buy him that because he asked me could I do that for  
 12 him and his girlfriend, so they could take their kids back and  
 13 forth to school.  
 14 Q. So you didn't do it because you owed him \$2,500, you did  
 15 it out of the kindness of your heart?  
 16 A. I did it, yeah.  
 17 Q. Out of the kindness of your heart?  
 18 A. It wasn't all kindness. It's just that when Dazz asked  
 19 for something, I did it.  
 20 Q. Okay. But it had nothing to do with you owing him  
 21 \$2,500?  
 22 A. Well, it could have. I don't know. I didn't know at the  
 23 time if the \$2500 would come into play at the time or not, but  
 24 knowing what I know about Dazz --  
 25 MR. ZUCKER: Objection. Objection.

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# EXHIBIT D

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, : Docket No. CR 05-100  
: :  
Plaintiff :  
: :  
v. : Washington, DC  
: :  
ANTWUAN BALL, :  
DAVID WILSON, :  
GREGORY BELL, : April 19, 2007  
DESMOND THURSTON, :  
JOSEPH JONES, :  
DOMINIC SAMUELS, :  
: :  
Defendants : 1:00 p.m.  
· · · · · : · · · · ·

VOLUME 37 - AFTERNOON SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS,  
UNITED STATES DISTRICT JUDGE, and a jury

APPEARANCES:

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(202) 454-2811

Page 7901

1 Florida, Mike wasn't there, who you usually bought from, so you  
2 bought from some other guys. Right?

3 A. Yes.

4 Q. Mike usually sets up in the alley; these other guys, or some  
5 young-uns, had set up right on the street. Is that right?

6 A. Yes.

7 Q. And they had a trash bag full of marijuana. Right?

8 A. Yes.

9 Q. And you bought some. Right?

10 A. Yes.

11 Q. And on the way back to Congress Park, were you thinking  
12 about robbing them?

13 A. Yes, I was.

14 Q. Because it was pretty sweet. Right?

15 A. Yes.

16 Q. And you came back and you saw Dazz. Right?

17 A. Yes.

18 Q. And you told him what happened. Right?

19 A. Yes.

20 Q. And then you and he went back up there to rob them. Right?

21 A. Yes.

22 Q. You didn't go up there to buy weed with Dazz, did you?

23 A. No, I didn't.

24 Q. So those are two separate events. One was you went and  
25 bought the weed, concocted the plan, went and got Dazz and

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1 executed the robbery. Right?

2 A. Yes.

3 Q. And you said Dazz took the money and then you both split the  
4 weed. Right?

5 A. Yes.

6 Q. How much weed did you take?

7 A. I don't recall how much weed it was.

8 Q. Did you recall yesterday?

9 A. It was a couple of bags -- it was like 30 bags, 40 bags,  
10 dime bags.

11 Q. Do you recall saying 40 bags yesterday?

12 A. Yes.

13 Q. But you told the grand jury -- first off, what did you do  
14 with those bags?

15 A. We smoked them.

16 Q. Right.

17 A. While we was together.

18 Q. Right. And then what did you do with the rest?

19 A. Then we went our separate ways, he kept some and I kept  
20 some, half and half of whatever we had left.

21 Q. And what did you do with those 15 -- you would have had  
22 about 15 left. Right?

23 A. Yes.

24 Q. And he would have had an equal number?

25 A. About 15.

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1 Q. What did you do with those, the 15?

2 A. What I did with mine?

3 Q. Yes.

4 A. I smoked most of them and I sold most of them.

5 Q. You did not share them with all the other supposed members  
6 of the Congress Park crew, did you?

7 A. No, I didn't.

8 Q. You kept them for yourself, and what you didn't smoke, the  
9 money you sold went to you. Right?

10 A. Yes.

11 Q. It had nothing to do with anybody in Congress Park except  
12 you and Dazz. Right?

13 A. Yes.

14 Q. Now, you told a different version of events to the grand  
15 jury, didn't you, sir?

16 A. Repeat your question.

17 Q. Sure. You told the grand jury -- when you told them about  
18 the incident, you told them a different version of events, did  
19 you not?

20 A. I don't recall.

21 Q. Do you recall telling them that you and Dazz both went up  
22 there to buy weed, and decided to rob the guys instead?

23 A. No, I don't.

24 Q. Turn to page 52 of the grand jury transcript, please.

25 A. (Witness complies.)

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1 Q. Beginning on line five, question from Mr. Beatrice to you:  
2 "Okay. Were you involved in another robbery that you committed  
3 with the person you previously identified as Dazz?"

4 Answer: "Yeah, up 6th and Florida, some weed boys. I  
5 mean, we went up there to buy some weed, but at the same time,  
6 the dudes just showed us too much, and me and Dazz got out of  
7 the car and got them, meaning got them, meaning Dazz whipped out  
8 and I took the weed and got in the car and left."

9 That's what you told the grand jury. Right?

10 A. Yes. That was a lie.

11 Q. That was a lie?

12 A. Yes, it was.

13 Q. Why did you tell the grand jury that lie?

14 A. Because I went up there first and I bought weed first, then  
15 I left and came back to pick Dazz up, then we went up there to  
16 rob them.

17 Q. The question was, why did you lie to the grand jury about  
18 that?

19 A. It probably was a misunderstanding.

20 Q. Well, a misunderstanding or a lie?

21 A. A misunderstanding.

22 Q. So it wasn't a lie, or was it a lie, or do you know?

23 MS. PETALAS: Objection, Your Honor. Asked and  
24 answered.

25 THE COURT: Sustained.

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1 BY MR. ZUCKER:

2 Q. Now, you told us that Dazz kept the money. Right?

3 A. Yes.

4 Q. Did you tell the grand jurors that you and he just wanted  
5 the weed and left the money?

6 A. Repeat your question.

7 Q. Sure. Did you tell the grand jurors that you and he just  
8 wanted the weed and left the money?

9 MS. PETALAS: Objection, Your Honor. May I get a page  
10 and line number? Your Honor, I would request a page and line  
11 reference.

12 MR. ZUCKER: Right now I'm just asking a question. If  
13 we get to that, I would be glad to.

14 THE COURT: Provide the page and line number.

15 MR. ZUCKER: All right. 52, lines 22 up until the next  
16 page.

17 BY MR. ZUCKER:

18 Q. Starting with line 22, same questions from Mr. Beatrice, or  
19 later on in the sequence: "When you say they showed you too  
20 much, what do you mean? They showed too much weed or too much  
21 money or both or -- "

22 Answer: "Just the weed. They -- they showed the  
23 money, but we didn't want the money. We just wanted the weed."

24 Question: "And is that what you robbed them of, weed?"

25 Answer: "Yeah."

Page 7910

1 Q. Why did you lie about the amount you stole?

2 A. Because it was in bags, it wasn't no just a pound. It was  
3 in -- we got bags.

4 Q. The question was, why did you lie?

5 A. Just a misunderstanding.

6 Q. Well, basically what you've told this jury was about  
7 40 dimes; what you told the grand jury was roughly 400 dimes  
8 worth. Right?

9 A. Yes.

10 Q. A pound.

11 Did this robbery ever happen?

12 A. Yes, it did.

13 Q. Who was robbed?

14 A. Repeat your question.

15 Q. Who was robbed?

16 A. Two dudes.

17 Q. You can't identify them, can you?

18 A. No, I can't.

19 Q. So we can't bring them in here, can we?

20 MS. PETALAS: Objection, Your Honor.

21 THE COURT: Sustained.

22 BY MR. ZUCKER:

23 Q. How do I find these two dudes?

24 MS. PETALAS: Objection, Your Honor.

25 THE COURT: I'll allow it, if he knows.

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1 THE COURT: Sustained.

2 BY MR. ZUCKER:

3 Q. Well, if the truth is: I don't know anything about what  
4 anybody else did, and therefore I can't help you --

5 MS. PETALAS: Same objection, Your Honor.

6 THE COURT: Let him finish the question.

7 BY MR. ZUCKER:

8 Q. Do you expect, would you be entitled to a motion from the  
9 government saying you provided substantial assistance in the  
10 prosecution of others?

11 THE COURT: Sustained. But you can rephrase.

12 BY MR. ZUCKER:

13 Q. All right. Why don't you tell us what you think the  
14 substantial assistance means, in your own words?

15 A. To tell the truth.

16 Q. About what?

17 A. About my involvements in this case.

18 Q. What about other people's involvement?

19 A. And their involvements also.

20 Q. And if you don't know anything about their involvement, do  
21 you expect to get a motion for a departure based on substantial  
22 assistance?

23 MS. PETALAS: Objection, Your Honor.

24 THE COURT: Basis?

25 MS. PETALAS: Calls for speculation if he doesn't know

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1 MR. BALAREZO: Your Honor, I object to the objection.

2 THE COURT: The question began with his understanding,  
3 and I'll allow it. Please repeat the question.

4 BY MR. ZUCKER:

5 Q. It is your understanding that, in order to get a substantial  
6 assistance motion, you have to help them convict someone else.

7 Right? Plain English.

8 A. Yes.

9 Q. And that's the only way you get out from spending 360 months  
10 to life in prison. Right?

11 A. Yes.

12 Q. So as you sit here today, testifying against these men, it  
13 basically comes down to them or you, in your mind. Right?

14 A. Yes.

15 Q. And you've not testified in any other cases to date as a  
16 government witness, have you?

17 A. Repeat your question.

18 Q. Sure. Thus far, since beginning your cooperation, you have  
19 not testified in any other cases. Right?

20 A. You right.

21 Q. And you do not expect to, at least at this point, to testify  
22 in any other cases, do you?

23 A. No, I don't.

24 Q. So it's either -- this is your shot to stay out of prison.

25 Right? For the rest of your life?

# EXHIBIT E

14223

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :  
                               :  
                                Plaintiff, : Docket No. CR 05-100  
                               :  
                                v. :  
                                :  
                                ANTWUAN BALL, DAVID WILSON,  
                                GREGORY BELL, DESMOND  
                                THURSTON, JOSEPH JONES, and  
                                DOMINIC SAMUELS,  
                                :  
                                Defendants.  
                                :  
                                :  
                                :

VOLUME 62 - MORNING SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD W. ROBERTS  
UNITED STATES DISTRICT COURT JUDGE, and a JURY

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Proceedings reported by machine shorthand, transcript produced  
by computer-aided transcription.

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14225

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1      MORNING SESSION, JUNE 6, 2007

- 2      (9:16 a.m.)
- 3      MR. CARNEY: Your Honor, I have something at --
- 4      THE COURT: Hold on one second.
- 5      Okay.
- 6      MR. CARNEY: Your Honor, I have something at 10:45, 11:00
- 7      with Judge Robertson, and I expect Mr. Tabackman to be here, but
- 8      I haven't heard from him, so I would ask to be excused at 10:45
- 9      if he doesn't show up.
- 10     THE COURT: All right. If he hasn't arrived at that
- 11     point, perhaps you'll need to -- and you still have to go, you
- 12     may need to make some representation about someone standing in
- 13     for you, with your client's consent.
- 14     MR. CARNEY: I'll do that, Your Honor. Your Honor, I'll
- 15     have Ms. Wicks stand in for me in case he's not here.
- 16     MR. MARTIN: Your Honor, on the issue of the clothes,
- 17     Mr. -- I think his last name is McCain -- he didn't have a key so
- 18     there was a delay in getting the clothes to the clients this
- 19     morning. However, we've resolved that issue. And the way we've
- 20     done it is we've left a key to that room in a central location
- 21     that only Mr. McCain knows where it is.
- 22     And I think that that should resolve any issues about the
- 23     clothing getting down in time to the defendants.
- 24     THE COURT: All right. Thank you.
- 25     I guess we can bring the jury in.

*Scott L. Wallace, RDR, CRR  
Official Court Reporter*

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1 10:58 a.m.)

2 THE COURT: All right. You ready for the jury?

3 MR. ZUCKER: Yes, sir.

4 (Jury in at 10:59 a.m.)

5 THE COURT: Good morning, ladies and gentlemen.

6 THE JURY PANEL: Good morning.

7 THE COURT: Welcome back. We're ready to resume.

8 Mr. Zucker.

9 MR. ZUCKER: Thank you, Judge.

10 BY MR. ZUCKER:

11 Q. Mr. Ewing, before we broke, I was asking you some  
12 questions.13 Now, as I recall, on the tape you told the dispatcher you  
14 had no idea why these guys had shot at you; is that correct?

15 A. Yes.

16 Q. That's a true statement, isn't it?

17 A. Yeah, pretty much.

18 Q. As far as you were concerned -- I mean, you never had any  
19 run-ins with Dazz, had you?

20 A. No.

21 Q. There was no bad blood between you him, right?

22 A. No.

23 Q. You never had bad words or bad exchanges, right?

24 A. No.

25 Q. You were not part of any group that was beefing with any

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Official Court Reporter*

1 group that he was a part of, were you?

2 A. No, I wasn't a part of a group.

3 Q. Okay. And you had in the past -- well, you told  
4 Officer Duncan, in the past you had been beefing with some guys  
5 from Congress Park, but Dazz wasn't part of that, right?

6 A. No.

7 Q. No, you didn't say that or --

8 A. Yeah, I said it, but, no, he wasn't part of anything.

9 Q. Okay. And whatever problem you had with some other guys  
10 from Congress Park, didn't involve Dazz one bit, right?

11 A. No.

12 Q. And whatever problem you had with some guys from Congress  
13 Park, that was years before, and as far as you were concerned it  
14 was ancient history, right?

15 A. Yes.

16 Q. At the time this shooting happened, right?

17 A. Yes.

18 Q. And whatever it was about, it was resolved, it wasn't an  
19 ongoing thing between you and whoever those guys were, right?

20 A. Right.

21 Q. Now, you told us that on the night this happened, you  
22 didn't tell the police who had shot you; is that correct?

23 A. Yes.

24 Q. And that was because you didn't want to be thought of as  
25 a snitch, right?*Scott L. Wallace, RDR, CRR  
Official Court Reporter*

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1 A. Yes.

2 Q. And that's why you didn't mention Dazz to the police, or  
3 anyone else on the night this happened, right?

4 A. Yes.

5 Q. And you told the police you didn't know who shot you and  
6 didn't recognize anybody, right, or words to that effect?

7 A. Yes.

8 Q. And you're sure of that, right?

9 A. Yes.

10 Q. Positive?

11 A. Yeah.

12 Q. As positive of that as you are that Desmond Thurston was  
13 the person you saw that night, right?

14 A. Naw.

15 Q. That's not what I'm saying, I think we misunderstood each  
16 other?

17 A. Right.

18 Q. Are you as sure of that fact, what you just testified to,  
19 as everything else in your testimony?

20 A. Yeah.

21 Q. Okay. Do you have any idea why Officer Duncan would say  
22 you gave him the name Dazz that night, then?

23 A. No.

24 Q. Officer Duncan was one of the first officers on the  
25 scene, right?*Scott L. Wallace, RDR, CRR  
Official Court Reporter*

1 A. Right.

2 Q. And you couldn't have given him the name Dazz that  
3 evening, could you?

4 A. That was 11 years ago, maybe.

5 Q. Well, wait a minute. A minute ago you were absolutely,  
6 positively sure you had not.

7 A. Uhm.

8 Q. Do you now want to change that answer?

9 A. No. I mean --

10 Q. So you're still positive?

11 A. Yeah. Yeah.

12 Q. So you couldn't have given Officer Duncan the name Dazz  
13 as the person you saw that evening, right?

14 A. Naw.

15 Q. And you are as sure of that fact as you are of the fact  
16 that Desmond Thurston was the person you saw -- one of the  
17 persons you saw pull the gun that evening, correct?

18 A. No.

19 Q. Which fact are you more sure of?

20 A. That I seen Dazz.

21 Q. So now you're not so sure of what you told the police  
22 that night --

23 A. No.

24 Q. -- because it was 11 years ago?

25 A. Yes.

*Scott L. Wallace, RDR, CRR  
Official Court Reporter*

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- 1 Q. And you were high?  
 2 A. Yeah, I was.  
 3 Q. And you were scared, understandably?  
 4 A. Yes.  
 5 Q. And at the time the shots came off, what was your primary focus?  
 6 A. To get away.  
 7 Q. Okay. It wasn't to make an identification, was it?  
 8 A. No.  
 9 Q. It was to save your life, as anybody would, right?  
 10 A. Yes.  
 11 Q. Okay. And as you dove in that house to get away from the first shooter, you weren't focusing on who was behind him, were you?  
 12 A. I was focusing on them as they were coming up the street.  
 13 Q. And you said you saw them come through a cut?  
 14 A. Yeah.  
 15 Q. And how far away from your house was that cut?  
 16 A. I'm really not sure, maybe 50 feet.  
 17 Q. Is there anything that would help you, car lengths, building lengths, to estimate?  
 18 A. Actually, can you -- was it on that photo you looked at?  
 19 Q. Naw, I really couldn't tell you where the cut was on the photo.  
 20 Q. So it was past whatever was on the photo?

*Scott L. Wallace, RDR, CRR  
Official Court Reporter*

- 1 A. No, it wasn't past, but it wouldn't be accurate if I was  
 2 to show you, because I can't see from over top like that.  
 3 Q. You can't identify the cut --  
 4 A. No.  
 5 Q. -- from the aerial photo?  
 6 A. No.  
 7 Q. I see. But can you point to something to the room, or is it further away than that back wall?  
 8 A. Yeah, it's a little further than the back wall.  
 9 MR. ZUCKER: Judge, if I could, could I get an estimate,  
 10 please.  
 11 THE COURT: The distance from the back wall to the witness stand appears to be 52 feet, approximately.  
 12 BY MR. ZUCKER:  
 13 Q. So it's something further than that back wall, right?  
 14 A. Yeah, maybe a little further away.  
 15 Q. Okay. And you watched them as they walked towards you, right?  
 16 A. Um-hmm.  
 17 Q. But you said you didn't recognize them as they approached you, did you?  
 18 A. No.  
 19 Q. How long did it take for them to walk from that cut to the front of your house, roughly?

*Scott L. Wallace, RDR, CRR  
Official Court Reporter*

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- 1 A. Five seconds, five, ten seconds.  
 2 Q. Well, 50, 60 feet, about 12, 15 paces, something like that?  
 3 A. Something like that.  
 4 Q. And during that whole time, you didn't recognize them, right?  
 5 A. No, I didn't recognize the guy in the front, no.  
 6 Q. Well, you told us a minute ago you didn't recognize either of them as they walked up, right?  
 7 A. Right.  
 8 Q. But you're sure that that happened, aren't you?  
 9 A. Yeah.  
 10 Q. That you watched them as they walked forward from the Nope?  
 11 A. Yeah.  
 12 Q. Okay. This was 11 years ago, though, wasn't it?  
 13 A. Um-hmm.  
 14 Q. Are you absolutely sure?  
 15 A. Yeah.  
 16 Q. Would it surprise you to find out that you never mentioned that in the grand jury?  
 17 A. Uhm, well --  
 18 Q. Would you like to see your grand jury transcript?  
 19 A. No.  
 20 Q. Okay. Would it surprise you to find out that you never

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Official Court Reporter*

- 1 mentioned that to the police?  
 2 MR. GUERRERO: Objection, asked and answered.  
 3 THE COURT: Overruled.  
 4 THE WITNESS: No.  
 5 BY MR. ZUCKER:  
 6 Q. Would it surprise you to find out that you told Officer Duncan you saw them get out of a black Lincoln and shoot you?  
 7 A. No.  
 8 Q. That wouldn't be true, though, that they got out of a black Lincoln and shot you; that you watched them, they got out of a black Lincoln before they shot you?  
 9 A. No.  
 10 Q. Why would you provide them -- well, with that inaccurate information? Why would you provide them with that inaccurate information on the night that it occurred?  
 11 A. Yeah.  
 12 Q. Well, I didn't want to -- I already said I didn't want to snitch at all.  
 13 Q. Well, why did you mention the black Lincoln?  
 14 A. Honestly, I don't remember.

*Scott L. Wallace, RDR, CRR  
Official Court Reporter*